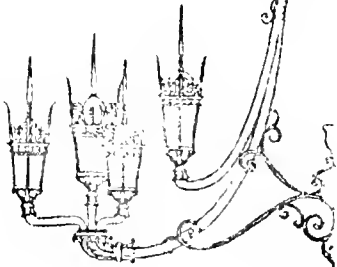


GOV DOC

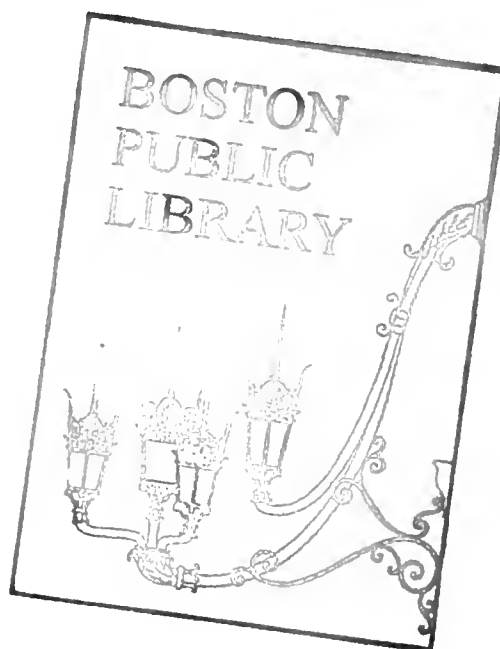
BOSTON
PUBLIC
LIBRARY



BRA
629

PRUDENTIAL FINANCING DOCUMENTS

DECEMBER, 1989



PRUDENTIAL FINANCING DOCUMENTS

<u>Table of Contents</u>	<u>Tab #</u>
Loan and Security Agreement	1
Promissory Note for \$2,525,000	2
Promissory Note for \$2,500,000	3
Escrow Account Agreement	4
Escrow Agreement: Debt Service Reserve	5
Escrow Agreement: Debt Enforcement Fund	6
D.I.P. Agreement for 222 Berkeley Steet with Amendment	7
D.I.P. Agreement for 75 State Street	8
Estoppel letter to Two Twenty Two Berkeley Venture	9
Estoppel letter to 75 State Street Limited Partnership	10
Payment Direction letter	11
Opinion letters	12

LOAN AND SECURITY AGREEMENT

THIS AGREEMENT, dated as of the 5th day of December, 1989 by and among the Neighborhood Housing Trust, a Massachusetts public charitable trust, having an office at 1010 Massachusetts Avenue, Boston, Massachusetts 02118 (the "Trust"), the Boston Redevelopment Authority, a body politic and corporate, having an office at One City Hall Square, Boston, Massachusetts 02201 (the "BRA") and The Prudential Insurance Company of America, a New Jersey corporation, having an office at Prudential Plaza, 15th Floor, Newark, New Jersey 07102 ("Prudential").

W I T N E S S E T H:

WHEREAS, pursuant to Development Impact Project Agreements (as the same have been amended) (collectively, the "DIP Agreements" and each a "DIP Agreement"), entered into by and between the BRA, on behalf of the Trust, and the developers of the projects listed on Exhibit A annexed hereto (collectively, the "Obligors" and each an "Obligor"), each of the Obligors has agreed to make payments of the Development Impact Project Exaction (as defined in Article 26 of the Boston Zoning Code) ("Linkage Payments") to the Trust, in the respective aggregate amounts shown on said Exhibit A; and

WHEREAS, the Linkage Payments are payable by the Obligors to the Trust in equal annual installments over the period of time specified in Section 26 of the Boston Zoning Code on the dates specified in Exhibit A; and

WHEREAS, the Trust desires to (i) borrow funds from Prudential to facilitate the creation of low and moderate income housing units as specified in certain proposals made by the Obligors pursuant to letters to the BRA annexed hereto as Exhibit B, and (ii) make Promissory Notes to Prudential evidencing such indebtedness, all as more particularly set forth in this Agreement; and

WHEREAS, Prudential has agreed, upon and subject to the terms and conditions set forth in this Agreement, to loan to the Trust such funds, secured by, among other things, an assignment by the Trust of its right to receive in the future all or a portion of the Linkage Payments payable by the Obligors.

NOW, THEREFORE, in consideration of the mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

3,049,761.29

1. Loan of ~~\$3,224,727.26~~. Prudential shall on or about December 1, 1989, as determined by the Trust in accordance herewith, except in no event unless and until all of the conditions precedent thereto as set forth in this Agreement shall have occurred ("the Closing Date") advance to the Trust in accordance with the provisions of Paragraph 4, ~~\$3,224,727.26~~ (the "Loan Proceeds") and the Trust shall deliver to Prudential simultaneously therewith, (i) two (2) Promissory Notes, having face amounts of \$2,500,000 and \$2,525,000, respectively, substantially in the form of Exhibit C (collectively, the "Notes" and individually, a "Note") and (ii) opinions of counsel to the Trust and the BRA in the form of Exhibit D. If the Closing Date should occur on a date other than December 1, 1989, the amount of the Loan Proceeds shall be adjusted as appropriate to maintain the loan amount, on the Closing Date, as the then present value of the stream of Linkage Payments assigned pursuant to Paragraph 2, assuming a 9.25% discount rate.

2. Assignment of Linkage Payments. The Trust hereby assigns and conveys to Prudential all of its right, title and interest in and to each of the remaining annual installments of Linkage Payments payable by the Obligors listed on Exhibit A (or any successor to or assignee of their obligations under their DIP Agreements). As a condition to the occurrence of the Closing Date, the Trust shall have (i) notified each of the aforesaid Obligors of the assignment of its Linkage Payments pursuant hereto, (ii) obtained the agreement of the Obligors to make all future installments of Linkage Payments directly to Prudential pursuant to an agreement in the form of Exhibit E and (iii) delivered to Prudential original execution counterparts of such agreements. Payments made by Obligors directly to Prudential pursuant to the aforesaid agreements shall satisfy the obligations of the Trust under the Note to which such payments relate as fully as though made by the Trust to Prudential. The Trust and the BRA represent that (i) each of the DIP Agreements referred to in the Notes are in full force and effect and have not been amended except as set forth in the Notes, (ii) the Linkage Payments due to the Trust from the Obligors or their successors or assigns equal the respective amounts and are due on the respective dates specified in Exhibit A and (iii) notwithstanding anything to the contrary expressly stated or implied in the two (2) votes of the Trust, each dated September 10, 1989 (the "September Votes") and annexed hereto as Exhibit F, specifying the use to which the funds generated by such Linkage Payments shall be put, such Linkage Payments have not been previously assigned, encumbered or committed. The September Votes shall be deemed to evidence the Trust's intentions regarding the manner in which the Loan Proceeds shall be utilized by the Trust. Neither the Trust nor the BRA shall make or permit to be made

any assignment, encumbrance or commitment hereafter which is inconsistent with this Paragraph 2.

3. Debt Service Reserve. The BRA shall, as a condition to the occurrence of the Closing Date, deposit with Bank of New England, N.A. (the "Escrow Agent") the sum of \$460,416.00 as further security for the obligations of the Trust under the Notes and hereunder. The aforesaid amount, as the same may be increased or decreased pursuant to this Agreement, plus all net interest accrued thereon, shall be hereafter referred to as the "Debt Service Reserve." The Debt Service Reserve shall be held by the Escrow Agent in accordance with the terms and conditions of an escrow agreement substantially in the form of Exhibit G.

4. Disbursement of Loan Proceeds. A portion of the Loan Proceeds (together with any net interest thereon accrued pursuant to this Paragraph 4, the "Reinvested Loan Proceeds") shall, simultaneously with their disbursement to the Trust, be transferred back to Prudential for reinvestment on behalf of the Trust. The Trust hereby directs Prudential to invest the Reinvested Loan Proceeds in U.S. Treasury Certificates having a maturity of not more than 30 days. Upon maturity thereof, the Reinvested Loan Proceeds shall be reinvested in the same or similar investments with similar maturities unless and until Prudential is given notice of other investment instructions not later than fifteen (15) days prior to the maturity thereof. The risk of investment loss in connection with the Reinvested Loan Proceeds shall at all times be imposed on the Trust and not upon Prudential. The Reinvested Loan Proceeds shall be continually reinvested until the Trust shall have made a timely disbursement direction pursuant to this Agreement. The Trust will direct the disbursement of portions of the Reinvested Loan Proceeds from time to time in accordance with the schedule set forth on Exhibit H, provided that the Trust may modify any date set forth in such schedule upon ten (10) business days notice prior to the earlier of (x) the date in question set forth in Exhibit H and (y) the date which the Trust proposes to substitute therefor. *Notwithstanding the foregoing, the Trust may direct Prudential at the time of Closing to disburse any or all of the Loan Proceeds to itself or its designee or designees.*

5. BRA Enforcement of Linkage Payments. The BRA agrees that it will diligently defend in any court, tribunal or other forum any action or proceeding in which the legality of Articles 26 and/or 26A of the Boston Zoning Code or the payment of Linkage Payments thereunder is challenged, whether or not such Linkage Payments are assigned and conveyed hereunder. The BRA further agrees to diligently prosecute any default in the payment of Linkage Payments whether or not payable by an Obligor hereunder, including exhausting all rights of appeal. As security for the aforesaid obligations, the BRA covenants (i) to deposit with an escrow agent satisfactory to Prudential, pursuant to an escrow agreement satisfactory to Prudential, as

a "Legal Defense Fund," Two Hundred Fifty Thousand Dollars (\$250,000) to be used exclusively by the BRA as and when drawn out of escrow for defending any action or proceeding in which the legality of Article 26 and/or 26A of the Boston Zoning Code or the obligation to make payment of Linkage Payments thereunder is challenged, whether or not payable by an Obligor hereunder and (ii) to deposit with the Escrow Agent, pursuant to the terms and conditions of an escrow agreement substantially in the form of Exhibit I, as an "Enforcement Fund," Fifty Thousand Dollars (\$50,000) to be used by the BRA, as and when drawn out of escrow, exclusively for enforcing the obligations to make Linkage Payments undertaken by the Obligors under Article 26 and/or 26A of the Boston Zoning Code or a DIP Agreement entered into pursuant thereto upon any default thereof. The deposit of the Enforcement Fund into escrow by the BRA pursuant to this agreement shall be a condition precedent to the occurrence of the Closing Date. The deposit of the Legal Defense Fund into escrow shall not be a condition precedent to the occurrence of the Closing Date but the BRA shall use best efforts to make arrangements leading to the deposit of the Legal Defense Fund into escrow within a reasonable period of time after the Closing Date; the escrow agreement with respect to which the Legal Defense Fund shall be held, which shall be satisfactory to Prudential, may provide that the net interest accrued upon the Legal Defense Fund may be disbursed by the escrow agent from time to time to the BRA. The BRA further agrees to use reasonable efforts to obtain the agreement of all Obligors to record their DIP Agreements or notices thereof with the Suffolk County Registry of Deeds prior to or promptly after the Closing Date. If such agreement is obtained by the BRA, the BRA shall record such DIP Agreements or notices thereof. To the extent such Obligors fail to agree to record their DIP Agreements or notices thereof as aforesaid, the BRA shall use reasonable efforts to record an omnibus notice in form and substance satisfactory to Prudential of all of the DIP Agreements of the Obligors prior to or promptly after the Closing Date.

6. Events relieving an Obligor of its Obligation to make Linkage Payments. If the City of Boston or any instrumentality thereof should at any time impose, assess or levy any excise or tax upon one or more of the projects with respect to which Linkage Payments are assigned hereunder or any Obligor in connection therewith, and the obligations of the Obligor(s) in question to make such Linkage Payments shall be relieved thereby in whole or in part (the amount by which Linkage Payments are so reduced being hereinafter referred to as the "Excise Deficiency"), the Trust shall not be relieved of its obligation to make the full amount of any payments required to be made by it to Prudential under the Notes. If the Trust should default in its obligation as aforesaid, the BRA agrees

to indemnify Prudential and guarantee payment to Prudential under the Notes in the amount of the Excise Deficiency.

7. Enforceability. If any term or provision of this Agreement shall to any extent be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and each remaining term and provision shall be valid and shall be enforceable to the extent permitted by law unless such invalidity or unenforceability shall impair in whole or in part Prudential's right to receive the amounts due to it under the Notes or materially lessen the security which the Trust or the BRA is hereby or has agreed to furnish hereafter to Prudential.

8. Notices. All notices and other communications given under this Agreement shall be in writing and delivered by receipted hand delivery or mailed, postage prepaid, by registered or certified mail, return receipt requested, to the addressee. If the addressee is a party hereto, notices shall be sent to such party's address as provided below, unless such party designates a substitute address for notices in a notice conforming to this Paragraph 8:

Trust: Neighborhood Housing Trust
1010 Massachusetts Avenue
Boston, Massachusetts 02118
Attention: Lawrence Dwyer, Chair

With a copy to:

Collector-Treasurer's Office
City of Boston
One City Hall Square
Room M-5
Boston, Massachusetts 02201
Attention: Collector-Treasurer

BRA: Boston Redevelopment Authority
One City Hall Square
Boston, Massachusetts 02201
Attention: Director

With a copy to:

Boston Redevelopment Authority
Building 33
Charlestown Navy Yard
Charlestown, Massachusetts 02129
Attention: Chief General Counsel

Prudential:

The Prudential Insurance Company of America
Social Investments Unit
Prudential Plaza
15th Floor
Newark, New Jersey 07102

With a copy to:

Prudential Realty Group
Prudential Tower
Suite 4800
Boston, Massachusetts 02199
Attention: Regional Counsel; and

Goodwin, Procter & Hoar
Exchange Place
Boston, Massachusetts 02109
Attention: Joseph W. Haley, Esq.

9. Adjustment of Linkage Payment Obligations. (a) Should any determination or redetermination of the (i) square footage of the projects listed on Exhibit A or (ii) due dates of the Linkage Payments payable by an Obligor, conducted pursuant to the DIP Agreements or the statutes and/or regulations governing the same, cause the Linkage Payments due to the Trust from the Obligors or their successors or assigns, and assigned hereunder, to differ in amount or time of payment than the amounts and times contemplated pursuant to Exhibit A, then: the Notes shall be amended appropriately and the Loan Proceeds shall be recalculated to account for such adjustment and (x) if the Loan Proceeds shall be increased, then Prudential shall disburse the increase in Loan Proceeds to the Trust and (y) if the Loan Proceeds shall be decreased, then Prudential shall be entitled to draw down upon the Debt Service Reserve in the appropriate amount, with the result that the payment by Obligors of the Linkage Payments in the amount and at the time they are due to Prudential, as adjusted as aforesaid, shall completely self-liquidate the Trust's remaining indebtedness under the Notes assuming and applying the discount rate referred to in Paragraph 1.

(b) If Prudential shall be entitled to draw down upon the Debt Service Reserve to fund a prepayment of the Loan Proceeds as contemplated under this Paragraph 9 (the aggregate of any amounts drawn down as aforesaid being hereinafter referred to as the "Prepayment Amount") and by virtue of such dissipation of the Debt Service Reserve, there shall be insufficient proceeds to fund a draw upon the Debt Service Reserve as contemplated under Paragraph 3, then the Trust shall be

personally liable to reimburse Prudential for any deficiency not exceeding the Prepayment Amount. If the Trust should default in its obligation as aforesaid, the BRA agrees to indemnify Prudential and guarantee payment to Prudential of the amount owed by the Trust pursuant hereto not exceeding the Prepayment Amount.

10. Table of Contents, Titles and Headings. The headings of the sections, subsections and paragraphs set forth herein are for convenience of reference only and are not a part of this Agreement and shall be disregarded in construing or interpreting any of the provisions of this Agreement.

11. Amendments. This Agreement may be modified or amended only by a written agreement executed by all of the parties hereto.

12. Governing Law. This Agreement shall be governed by the laws of the Commonwealth of Massachusetts and shall be binding upon and inure to the benefit of the respective successors and assigns of the parties hereto.

IN WITNESS WHEREOF the parties hereto have caused this instrument to be executed on their behalf by their respective officer thereunto duly authorized as of the day and year first above set forth.

NEIGHBORHOOD HOUSING TRUST

By: Laurence H. Hays Managing Trustee
Chairman
BOSTON REDEVELOPMENT AUTHORITY

By: [Signature]
THE PRUDENTIAL INSURANCE COMPANY
OF AMERICA

By: Robert J. Walsh
Vice President

Approved as to form:

Robert F. McDevitt
Chief General Counsel
Boston Redevelopment Authority

EXHIBIT A

<u>Obligor</u>	Development <u>Name</u>	Term	Initial Annual		DIP Exaction	Yearly Payment	Letter of Credit	Payments	
			Payment Date					Made	Remaining
99 State Street Ltd Partnership	75 State Street	12	10/01/88		\$3,000,000	\$250,000	No	2	10
500 Boylston West Venture	222 Berkeley Street	12	04/24/91		\$2,525,000	\$210,416.66	No	0	12
Total payments					\$5,525,000				
Remaining payments					\$5,025,000				
Aggregate annual payment					\$460,416.66				

EXHIBIT B

The
Beacon
Companies

50 Rowes Wharf Boston, Massachusetts 02110 617 330-1400

August 14, 1989

Mr. Stephen Coyle, Director
Boston Redevelopment Authority
Boston City Hall, 9th Floor
Boston, MA 02201

Dear Mr. Coyle:

Pursuant to the provisions of Paragraph 2 of our June 18, 1985 Development Impact Project Agreement, 75 State Street Limited Partnership as developer of 75 State Street is pleased to support the following proposals to create affordable housing in the City of Boston in satisfaction of our Development Impact Project Exaction Payments:

- 1) The Paul Sullivan Trust proposal to develop 45 units of Single Room Occupancy ("SRO") housing at the Bowditch School in Jamaica Plan;
- 2) The Paul Sullivan Trust proposal to develop 33 SRO units in the Lodging House in the South End; and
- 3) The Urban Edge proposal to construct 100 units of cooperative housing on scattered sites in Jamaica Plan.

By assisting these projects, it is our hope to make housing more affordable to the residents in and around the Jamaica Plan and South End neighborhoods.

Very truly yours,

THE BEACON COMPANIES



David Lesh
Senior Project Manager

DL/jec

cc: Mr. Sldman
Ms. Moulton
Mr. O'Malley

TWO TWENTY TWO
BERKELEY

September 14, 1989

Mr. Stephen Coyle
Director - Boston Redevelopment Authority
Boston City Hall, 9th Floor
Boston, MA 02201

Dear Mr. Coyle:

Pursuant to the Development Impact Project Agreement, dated June 28, 1985, as affected by the Amended and Restated Sale and Construction Agreement, dated as of April 15, 1986, and as amended by the First Amendment to Development Impact Project Agreement, Two Twenty Two Berkeley Venture, the developer of Two Twenty Two Berkeley is responsible for housing linkage payments estimated at \$2,525,000 to be paid in twelve annual payments.

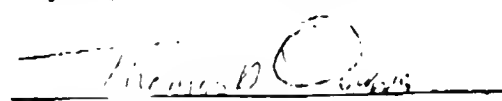
Pursuant to Section 6 of the DIP Agreement, Two Twenty Two Berkeley Venture is pleased to submit to you the following proposals to create affordable housing in the City of Boston in satisfaction of our DIP Exaction:

1. The Boston Citywide Land Trust, to assist in the development of 122 units of Single Room Occupancy housing on Bowdoin Street on Beacon Hill;
2. The Boston Housing Authority for rehabilitating 75 units of cooperative housing on scattered sites in the South End; and
3. The 438 Warren Street Limited Partnership for the rehabilitation of 21 units of Single Room Occupancy rental housing at the 438 Warren Street Lodging House in Roxbury.

By assisting these projects, it is our hope to make housing more affordable to the residents of Boston's neighborhoods.

Very truly yours,


William J. Salisbury
Copley Real Estate Advisors


Thomas D. Owens
Gerald D. Hines Interests

ms9129a.doc

EXHIBIT C

PROMISSORY NOTE

\$2,500,000

December __, 1989

FOR VALUE RECEIVED, the NEIGHBORHOOD HOUSING TRUST (the "Trust"), a Massachusetts public charitable trust, with an address of 1010 Massachusetts Avenue, Boston, Massachusetts 02118 (the "Borrower"), promises to pay to the order of the PRUDENTIAL INSURANCE COMPANY OF AMERICA, a New Jersey corporation (together with any successor holder or holders of this Note, "Lender") at its office at Prudential Plaza, 15th Floor, Newark, New Jersey 07102, or such other place as Lender may designate, the sum of Two Million Five Hundred Thousand Dollars (\$2,500,000) as hereinafter set forth.

The principal balance of this Note shall be payable without interest in equal annual installments of Two Hundred Fifty Thousand and 00/100 Dollars (\$250,000.00) each on the first day of October of each calendar year beginning with the 1st day of October, 1990. The aforesaid payments are equal to the payments ("Linkage Payments") which are required to be made by 99 State Street Limited Partnership or any successor thereto (the "Obligor") under its Development Impact Project Agreement, dated June 18, 1985, as amended on November 22, 1985 (the "DIP Agreement").

The entire outstanding principal balance of this Note shall be paid on October 1, 1999.

In the event that any regularly scheduled payment due hereunder is not paid when due, Lender shall have the right to draw down upon the "Debt Service Reserve" created pursuant to Paragraph 3 of that certain Loan and Security Agreement of even date herewith between the BRA, the Trust and Lender (the "Loan Agreement") in accordance with the terms and conditions of that certain Escrow Agreement of even date herewith between the BRA, Lender and Bank of New England, N.A. (the "Escrow Agreement" and, together with the Loan Agreement and this Promissory Note, (the "Loan Documents").

Lender agrees that except for the right to draw down upon the Debt Service Reserve as aforesaid, Borrower shall not be personally liable for any deficiency between the annual installments due hereunder and the annual installments of

Linkage Payments paid by the Obligor under its DIP Agreement which may arise except that in the event the City of Boston or any instrumentality thereof should at any time impose, assess or levy any excise or tax upon the project with respect to which the Linkage Payments are payable or the Obligor in connection therewith, the Trust shall be personally liable for the Excise Deficiency (as defined in Paragraph 6 of the Loan Agreement). In addition, in connection with any determination or redetermination of the amount of Linkage Payments required to be made by the Obligor or the timing of such payments, the Trust shall be personally liable for any Prepayment Amount (as defined in Paragraph 9 of the Loan Agreement). In no event shall this provision be deemed to diminish in any way the powers of Lender to exercise its rights provided under the Loan Documents or under law in the event of a default by Borrower thereunder.

The failure of Lender at any time to exercise any option or right hereunder or under the other Loan Documents shall not constitute a waiver of Lender's right to exercise such option or right at any other time.

This Note shall be governed by, construed, and enforced in accordance with the laws of the Commonwealth of Massachusetts. If any provision of this Note is held to be invalid or unenforceable by a court of competent jurisdiction, the other provisions of this Note shall remain in full force and effect.

This Note shall have the effect of an instrument under seal.

WITNESS:

BORROWER:



PROMISSORY NOTE

\$2,525,000

December __, 1989

FOR VALUE RECEIVED, the NEIGHBORHOOD HOUSING TRUST (the "Trust"), a Massachusetts public charitable trust, with an address of 1010 Massachusetts Avenue, Boston, Massachusetts 02118 (the "Borrower"), promises to pay to the order of the PRUDENTIAL INSURANCE COMPANY OF AMERICA, a New Jersey corporation (together with any successor holder or holders of this Note, "Lender") at its office at Prudential Plaza, 15th Floor, Newark, New Jersey 07102, or such other place as Lender may designate, the sum of Two Million Five Hundred Twenty Five Thousand Dollars (\$2,525,000) as hereinafter set forth.

The principal balance of this Note shall be payable without interest in equal annual installments of Two Hundred Ten Thousand Four Hundred Sixteen and 66/100 Dollars (\$210,416.66) each on the twenty-fourth day of April of each calendar year beginning with the 24th day of April, 1991. The aforesaid payments are equal to the payments ("Linkage Payments") which are required to be made by New England Mutual Life Insurance Company and Gerald D. Hines Interests, Inc. or any successor thereto (the "Obligor") under its Development Impact Project Agreement, dated June 28, 1985, as amended on May 11, 1988 (the "DIP Agreement").

The entire outstanding principal balance of this Note shall be paid on April 24, 2002.

In the event that any regularly scheduled payment due hereunder is not paid when due, Lender shall have the right to draw down upon the "Debt Service Reserve" created pursuant to Paragraph 3 of that certain Loan and Security Agreement of even date herewith between the BRA, the Trust and Lender (the "Loan Agreement") in accordance with the terms and conditions of that certain Escrow Agreement of even date herewith between the BRA, Lender and Bank of New England, N.A. (the "Escrow Agreement" and, together with the Loan Agreement and this Promissory Note, (the "Loan Documents").

Lender agrees that except for the right to draw down upon the Debt Service Reserve as aforesaid, Borrower shall not be personally liable for any deficiency between the annual installments due hereunder and the annual installments of Linkage Payments paid by the Obligor under its DIP Agreement

which may arise except that in the event the City of Boston or any instrumentality thereof should at any time impose, assess or levy any excise or tax upon the project with respect to which the Linkage Payments are payable or the Obligor in connection therewith, the Trust shall be personally liable for the Excise Deficiency (as defined in Paragraph 6 of the Loan Agreement). In addition, in connection with any determination or redetermination of the amount of Linkage Payments required to be made by the Obligor or the timing of such payments, the Trust shall be personally liable for any Prepayment Amount (as defined in Paragraph 9 of the Loan Agreement). In no event shall this provision be deemed to diminish in any way the powers of Lender to exercise its rights provided under the Loan Documents or under law in the event of a default by Borrower thereunder.

The failure of Lender at any time to exercise any option or right hereunder or under the other Loan Documents shall not constitute a waiver of Lender's right to exercise such option or right at any other time.

This Note shall be governed by, construed, and enforced in accordance with the laws of the Commonwealth of Massachusetts. If any provision of this Note is held to be invalid or unenforceable by a court of competent jurisdiction, the other provisions of this Note shall remain in full force and effect.

This Note shall have the effect of an instrument under seal.

WITNESS:

BORROWER:

COP

EXHIBIT D

November __, 1989

The Prudential Insurance Company
of America
Prudential Plaza
15th Floor
Newark, New Jersey 07102

Re: Loan to and Notes from the Neighborhood Housing Trust

Dear Ladies and Gentlemen:

We have acted as counsel for the Boston Redevelopment Authority ("BRA") in connection with the loan of \$ _____ (the "Loan") you are proposing to make to the Neighborhood Housing Trust ("Trust") as of even date herewith secured by inter alia the assignment of the right to receive the payments otherwise payable to or for the benefit of the Trust pursuant to certain Development Impact Project Agreements referred to in that certain Loan Agreement, dated _____, 1989, between you, the Trust and the BRA (the "Loan Agreement").

The Loan will be made pursuant to the Loan Agreement and will be evidenced by the Promissory Notes (the "Notes") delivered this day by the Trust. In connection with the Loan, the BRA will execute and deliver certain other documentation forms of which are annexed to the Loan Agreement (the Loan Agreement, the Notes and such other documentation, collectively, the "Loan Documents").

We have examined the By Laws of the BRA, the Housing Creation Regulations of the BRA, all votes of the BRA taken in connection with the Loan, the Development Impact Project Agreements which will be assigned to you as security for the Loan, the Loan Documents and all relevant records of the BRA, and have made such other investigations as we have deemed necessary in connection with the opinions hereinafter set forth. In such examination we have assumed the genuineness of all signatures and the authenticity of all documents submitted to us as copies thereof.

Based upon and in reliance on the foregoing, it is our opinion that:

1. The BRA is a duly organized body politic and corporate organized pursuant to M.C.L. c. 121B and St. 1960, c. 652, as amended, and has full power and authority to take the actions

to be taken by the BRA pursuant to the provisions of the Loan Agreement and the other Loan Documents.

2. That the Loan Agreement and all other Loan Documents to which the BRA is a party have been duly authorized, executed and delivered by the BRA and are legal, valid and binding obligations of the BRA enforceable against the BRA in accordance with their respective terms.

3. The execution and delivery of the Loan Documents to which the BRA is a party by the BRA and the consummation of the transactions contemplated thereby will not violate the By Laws, Votes, Development Impact Agreements or records hereinabove referred to nor any agreement by which the BRA is bound of which we are aware.

The attorneys who participated in the services rendered by us in connection with the matters covered by this opinion are members of the Bar of the Commonwealth of Massachusetts and do not purport to be experts on the law of any other state and law of which is applicable is such matters.

Very truly yours,

Schapiro, Hays & Kelly

November __, 1989

The Prudential Insurance Company
of America
Prudential Plaza
15th Floor
Newark, New Jersey 07102

Re: Loan to and Notes from the Neighborhood Housing Trust

Dear Ladies and Gentlemen:

We have acted as special counsel for the Neighborhood Housing Trust (the "Borrower") in connection with the loan of \$_____ (the "Loan") you are proposing to make to it as of even date herewith secured by inter alia the assignment of the right to receive the payments otherwise payable to or for the benefit of the Borrower pursuant to certain Development Impact Project Agreements referred to in that certain Loan Agreement, dated _____, 1989, between you, the Borrower and the Boston Redevelopment Authority (the "Loan Agreement").

The Loan will be made pursuant to the Loan Agreement and will evidenced by the Promissory Notes (the "Notes") delivered this day by the Trust. In connection with the Loan, the Borrower shall also execute and deliver certain other documentation forms of which are annexed to the Loan Agreement (the Loan Agreement, Notes and such other documentation, collectively, the "Loan Documents").

We have examined the Declaration of Trust of the Borrower, the Rules and Regulations for operations of the Neighborhood Housing Trust of the City of Boston, all votes of the Borrower taken in connection with the Loan, and Development Impact Project Agreements which will be assigned to you as security for the Loan, the Loan Documents and all relevant records of the Borrower, and have made such other investigations as we have deemed necessary in connection with the opinions hereinafter set forth. In such examination we have assumed the genuineness of all signatures and the authenticity of all documents submitted to us as copies thereof.

Based upon and in reliance on the foregoing, it is our opinion that:

1. The Borrower is a duly organized and existing Massachusetts public charitable trust under the laws of the

Commonwealth of Massachusetts will full power and authority to take the actions to be taken by the Borrower pursuant to the provisions of the Loan Agreement and the other Loan Documents.

2. The Loan Agreement and all other Loan Documents to which the Borrower is a party have been duly authorized, executed and delivered by the Borrower and are legal, valid and binding obligations of the Borrower enforceable against the Borrower in accordance with their respective terms.

3. The execution and delivery of the Loan Documents by the Borrower and the consummation of the transactions contemplated thereby will not violate the Declaration of Trust, Rules and Regulations, Votes, DIP Agreements or records hereinabove referred to nor any agreements by which the Borrower is bound of which we are aware.

The attorneys who participated in the services rendered by us in connection with the matters covered by this opinion are members of the Bar of the Commonwealth of Massachusetts and do not purport to be experts on the Law of any other state the law of which is applicable to such matters.

Very truly yours,

Schapiro, Hays & Kelly

EXHIBIT E

NEIGHBORHOOD HOUSING TRUST
AND BOSTON REDEVELOPMENT AUTHORITY
One City Hall Plaza
Boston, Massachusetts 02201

BY CERTIFIED MAIL/RETURN RECEIPT

December __, 1989

99 State Street Limited Partnership
c/o The Beacon Companies
50 Rowes Wharf
Boston, Massachusetts 02110

Re: Development Impact Project Agreement, as amended,
covering 75 State Street, Boston, Massachusetts

Ladies and Gentlemen:

Pursuant to the above-referenced DIP Agreement (the "DIP Agreement"), you are required to make certain annual payments ("Linkage Payments") to the undersigned Neighborhood Housing Trust as a contribution to the housing needs in the City of Boston.

The undersigned Neighborhood Housing Trust and Boston Redevelopment Authority have assigned \$250,000 of each of the remaining ten (10) Linkage Payments to be made by you pursuant to the DIP Agreement (\$2,500,000 in the aggregate) to the Prudential Insurance Company of America ("Prudential"). Therefore, effective commencing with the next succeeding installment of Linkage Payments, all remaining Linkage Payments, which are due in installments payable on October 1st of each year, are to be made as follows: (a) \$250,000 to the order of the following entity at the following address:

Prudential Insurance Company of America
Prudential Center, Suite 4800
Boston, Massachusetts 02199
Attention: David Smith
Accounting Manager;

and (b) the remainder of any such installment should be paid in the same manner as you have paid the first two (2) installments of Linkage Payments as provided in the DIP Agreement.

You should continue to make the \$250,000 payment to Prudential as directed above, on October 1st of each year,

unless and until you receive further notice to the contrary by Prudential.

This notice relates only to the Linkage Payments to be made by you pursuant to the above referenced DIP Agreement. Any other payments to be made under the DIP Agreement, including any Jobs Contribution Grant, Jobs Payment or Jobs Contribution, shall continue to be made in the manner described in the DIP Agreement. Furthermore, in the event you are a party to any DIP Agreements other than the one referenced above, all payments to be made pursuant to such other DIP Agreements shall continue to be made in the manner described in such other DIP Agreements unless and until you receive notice to the contrary from the undersigned.

Please sign this letter in the space provided below to confirm that the DIP Agreement is in full force and effect and has not been further amended or modified, and to confirm your obligation and agreement to make all future Linkage Payments under the DIP Agreement in accordance with this request and direction. Please return the signed letter in the enclosed envelope, to the Boston Redevelopment Authority at the above address, Attention: Thomas O'Malley.

If you have any questions regarding the foregoing, please contact Thomas O'Malley at 722-4300.

Sincerely,

Neighborhood Housing Trust

By: _____
Name: _____
Title: _____

Boston Redevelopment Authority

By: _____
Name: _____
Title: _____

CONFIRMED:

99 State Street Limited Partnership

By: _____
Name: _____
Title: _____

Hereunto duly authorized

NEIGHBORHOOD HOUSING TRUST
AND BOSTON REDEVELOPMENT AUTHORITY
One City Hall Plaza
Boston, Massachusetts 02201

BY CERTIFIED MAIL/RETURN RECEIPT

December __, 1989

Two Twenty Two Berkeley Venture
500 Boylston Street
Suite 1800
Boston, Massachusetts 02116

Re: Development Impact Project Agreement, as amended,
covering 222 Berkeley Street, Boston, Massachusetts

Ladies and Gentlemen:

Pursuant to the above-referenced DIP Agreement (the "DIP Agreement"), upon the earlier to occur of (i) April 24, 1991, (ii) the date which is four (4) years after the Condition Date (as defined in the Sale and Construction Agreement affecting your project) and (iii) the issuance of a certificate of occupancy for your project (such date, and each anniversary thereof, being hereinafter referred to as the "Payment Date") you will be required to make certain annual payments ("Linkage Payments") to the undersigned Neighborhood Housing Trust as a contribution to the housing needs in the City of Boston.

The undersigned Neighborhood Housing Trust and Boston Redevelopment Authority have assigned all Linkage Payments to be made pursuant to the DIP Agreement to the Prudential Insurance Company of America ("Prudential"). Therefore, effective commencing with the first installment of Linkage Payments payable by you under the DIP Agreement and until you receive further notice to the contrary from Prudential, all Linkage Payments payable by you under the DIP Agreement (which as of the date hereof is estimated to be \$2,525,000 in the aggregate, due in twelve (12) annual installments of \$210,416.66 each on each Payment Date), are to be made to the order of the following entity at the following address:

Prudential Insurance Company of America
Prudential Center, Suite 4800
Boston, Massachusetts 02199
Attention: David Smith
Accounting Manager

This notice relates only to the Linkage Payments to be made by you pursuant to the above referenced DIP Agreement. Any other payments to be made under the DIP Agreement, including any Jobs Contribution Grant, Jobs Payment or Jobs Contribution,

shall continue to be made in the manner described in the DIP Agreement. Furthermore, in the event you are a party to any DIP Agreements other than the one referenced above, all payments to be made pursuant to such other DIP Agreements shall continue to be made in the manner described in such other DIP Agreements unless and until you receive notice to the contrary from the undersigned.

Please sign this letter in the space provided below to confirm that the DIP Agreement is in full force and effect and has not been further amended or modified, and to confirm your obligation and agreement to make all future Linkage Payments under the DIP Agreement in accordance with this request and direction. Please return the signed letter in the enclosed envelope, to the Boston Redevelopment Authority at the above address, Attention: Thomas O'Malley.

If you have any questions regarding the foregoing, please contact Thomas O'Malley at 722-4300.

Sincerely,

Neighborhood Housing Trust

By: _____
Name: _____
Title: _____

Boston Redevelopment Authority

By: _____
Name: _____
Title: _____

CONFIRMED:

Two Twenty Two Berkeley Venture

By: _____
Name: _____
Title: _____

Hereunto duly authorized

EXHIBIT F

VOTE OF THE NEIGHBORHOOD HOUSING TRUST

Approved at a Meeting of the Neighborhood Housing Trust

September 28, 1989

VOTED: That the Neighborhood Housing Trust recommend to the Boston Redevelopment Authority that the Housing Creation Proposals as submitted and generally described by 75 State Limited Partnership as follows: 1) the Bowditch School Limited Partnership for 45 units of affordable SRO housing the Bowditch School in Jamaica Plain in the amount of a \$685,000 loan; (2) the 1734 Washington Street Limited Partnership for 33 units of SRO housing of which 31 units are affordable at the Lodging House in the South End in the amount of a \$270,000 loan; and (3) Urban Edge, for 211 units of cooperative housing of which 200 are affordable on scattered sites in Jamaica Plain in the amount of a \$750,000 loan, which together will utilize \$1,705,000 of the present value of the linkage exaction be approved as submitted, together with such other minor amendments as may be required to implement said affordable housing developments. Further, any funds due under the terms of the DIP Agreement dated and signed by and between the 75 State Street Limited Partnership and the Authority not utilized in conjunction with the terms and conditions of the following votes will revert to the Neighborhood Housing Trust. And further, the loan terms and conditions, where applicable, shall be negotiated between either the Public Facilities Department or the Boston Redevelopment Authority, as the case may be, and the recipient housing developer, and said loan terms and conditions shall be set out as agreed to in the respective Housing Creation Agreements between the parties.

Passed unanimously 9/28/89.

Attested to on behalf of the
Neighborhood Housing Trust

Lawrence Dwyer
Lawrence Dwyer (by RM)
Lawrence Dwyer, Chair

VOTE OF THE NEIGHBORHOOD HOUSING TRUST

Approved at a Meeting of the Neighborhood Housing Trust

September 28, 1989

VOTED: That the Neighborhood Housing Trust recommends to the Boston Redevelopment Authority that the Housing Creation Proposals as submitted and generally described by Two Twenty Two Berkeley Venture, developer of 222 Berkeley Street (the "Eastern Component"), as follows: 1) the Boston Citywide Land Trust in developing 122 units of Single Room Occupancy ("SRO") housing, of which 87 are affordable on Bowdoin Street on Beacon Hill in the amount of a loan for \$850,805; 2) the Boston Housing Authority for rehabilitating 73 units of cooperative housing, of which 66 are affordable, on scattered sites in the South End in the amount of a grant for \$350,000; and 3) the 438 Warren Street Limited Partnership for the rehabilitation of 21 units of SRO rental housing, 20 of which are affordable, at the 438 Warren Street Lodging House in Roxbury in the amount of a loan for \$255,000, which together will commit \$1,455,805 of the present value of its housing linkage payments to support the creation of affordable housing in the City of Boston, be approved as submitted, together with such other minor amendments as may be required to implement said affordable housing developments. Further, any funds due under the terms of the DIP Agreement dated and signed by and between the Authority and Two Twenty Two Berkeley Street Venture not utilized in conjunction with the terms and conditions of the following votes will revert to the Neighborhood Housing Trust. And further, the loan terms and conditions, where applicable, shall be negotiated between either the Public Facilities Department or the Boston Redevelopment Authority, as the case may be, and the recipient housing developer, and said loan terms and conditions shall be set out as agreed to in the respective Housing Creation Agreements between the parties.

Passed unanimously 9/28/89.

Attested to on behalf of the
Neighborhood Housing Trust

Lawrence Dwyer
Lawrence Dwyer (by *Ben*)
Lawrence Dwyer, Chair

EXHIBIT G

ESCROW AGREEMENT

THIS AGREEMENT, dated as of this ____ day of December, 1989 by and among the Boston Redevelopment Authority, a body politic and corporate, having an office at One City Hall Square, Boston, Massachusetts 02210 (the "BRA"), The Prudential Insurance Company of America, a New Jersey corporation, having an office at Prudential Plaza, 15th Floor, Newark, New Jersey 07102 ("Prudential") and Bank of New England, N.A., a national banking association, having an office at 28 State Street, Boston, Massachusetts 02109 (the "Escrow Agent").

W I T N E S S E T H :

WHEREAS, the BRA has agreed, pursuant to Paragraph 3 of that certain Loan and Security Agreement, dated as of even date herewith, by and among the Neighborhood Housing Trust (the "Trust"), the BRA and Prudential (the "Loan Agreement"), to deposit certain sums in escrow as further security for the obligations of the Trust under the Loan Agreement and the promissory notes delivered by the Trust to Prudential in connection therewith (the "Notes"); and

WHEREAS, the BRA and Prudential desire to appoint Escrow Agent as escrow agent to hold such funds and disburse the same in accordance with the terms of this Agreement.

NOW THEREFORE, in consideration of the mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Escrow Agent is hereby appointed escrow agent and all funds deposited with it hereunder, whether on this date or hereafter, and any interest accrued thereon (collectively, the "Debt Service Reserve"), shall be held in escrow on the terms and conditions of this Agreement.

2. The Debt Service Reserve shall be invested and reinvested in either certificates of deposit or FDIC insured money market accounts, as directed by Prudential. In either case, the maturity of any investment shall not exceed 30 days.

3. Escrow Agent shall disburse to Prudential, from time to time upon delivery by Prudential to Escrow Agent of a direction for payment stating either (i) that all or any portion of an installment due from the Trust under any of the Notes has not been timely paid, for any reason whatsoever (including, without limitation, monetary default by any project developer ("Obligor") making payments due under its DIP

Agreement (as defined in the Loan Agreement) whether to the Trust or directly to Prudential) or (ii) that by virtue of the recalculation of the loan proceeds pursuant to the terms of the Loan Agreement, a prepayment by the Trust is required, the amount specified in such demand as the amount then due and owing to Prudential. In addition, when any Obligor makes the final payment pursuant to its DIP Agreement and such payment is received by Prudential, notice of which Prudential shall give to Escrow Agent, the Debt Service Reserve shall be proportionately reduced by a fraction the numerator of which is the annual linkage payment of the Obligor in question and the denominator of which is the total aggregate annual linkage payment payable by all of the Obligors which are assigned to Prudential pursuant to the Loan Agreement. The amount by which the Debt Service Reserve shall be reduced pursuant to the preceding sentence shall be set forth in the aforesaid notice by Prudential to Escrow Agent and disbursed to the Trust by Escrow Agent.

4. If, at any time after the disbursement by Escrow Agent of any funds pursuant to Paragraph 3 hereof, an Obligor makes payment to either the Trust, the BRA or Prudential of all or a portion of the amount with respect to which such disbursement was made by Escrow Agent to Prudential, such payment shall be deemed to be part of the Debt Service Reserve and the party receiving such payment shall promptly remit the same to Escrow Agent.

5. Upon payment by or on behalf of the Trust of the last installment due under all of the Notes, the BRA may direct Escrow Agent to disburse the balance of the Debt Service Reserve to it by giving Prudential and Escrow Agent notice that the payment of such last installment has made and requesting the disbursement to it of the balance of the Debt Service Reserve. Unless Prudential objects to such disbursement in a notice given to the BRA and Escrow Agent within fifteen (15) business days of the date Prudential's Social Investing Unit confirms receipt in writing to the BRA and Escrow Agent of the BRA's request for disbursement, which confirmation of receipt shall be given promptly after the BRA's request for disbursement is received by Prudential's Social Investing Unit, Escrow Agent shall disburse such funds to the BRA and this Agreement shall then terminate and be of no further force or effect. If Prudential objects in a timely fashion to the disbursement of the balance of the Debt Service Reserve to the BRA, Escrow Agent shall continue to hold the Debt Service Reserve in escrow until it receives written instructions to do otherwise, signed by both Prudential and the BRA.

6. After the penultimate payment shall have been made by or on behalf of the Trust under both of the Notes, the BRA may direct Escrow Agent to disburse to it the amount by which the Debt Service Reserve exceeds \$460,416.00, if such excess then exists, by giving Prudential and Escrow Agent notice of its request to such effect. Unless Prudential objects to such disbursement within fifteen (15) business days of the BRA's request for disbursement, Escrow Agent shall make such disbursement. If Prudential objects in a timely fashion to such disbursement in the manner specified in Section 5 above, Escrow Agent shall continue to hold such amount in escrow until it receives written instructions to do otherwise, signed by both Prudential and the BRA.

7. (a) Escrow Agent's fees for acting hereunder shall be \$1,200 for each twelve month period during the term of this Agreement and shall be deducted by Escrow Agent from the first interest which accrues hereunder during the twelve month period in question.

(b) Escrow Agent shall be entitled to rely upon any notice, signature or writing which it shall in good faith believe to be genuine and to be signed or presented by a proper party or parties. Escrow Agent may consult with its counsel, or counsel of any of the other parties hereto, and shall not be held liable for any action taken or omitted in good faith on advice of such counsel. The other parties hereto jointly and severally agree to indemnify, protect and hold Escrow Agent harmless from any and all loss, liability and expense for anything which is done or omitted by it in good faith and not contrary to the express provisions of this Agreement or a notice or writing delivered to it hereunder and will reimburse the Escrow Agent for all its losses and expenses, including counsel fees, incurred by it in the performance of its duties and responsibilities hereunder except those which may be occasioned by Escrow Agent's own gross negligence or willful misconduct.

(c) Escrow Agent shall not be required to recognize any other agreement between the other parties hereto even though reference thereto may be made herein or copies or provisions thereof may be annexed as exhibits hereto and whether or not it may have knowledge thereof; it being the intent of the parties hereto that Escrow Agent's duties and responsibilities are only those as are expressly set forth therein. Escrow Agent shall have no responsibility whatsoever with respect to the undertakings of any other party hereto or to any notices or undertakings of anyone not a party hereto.

8. All notices and other communications given under this Agreement shall be in writing and delivered by receipted hand delivery or mailed, postage prepaid, by registered or certified mail, return receipt requested, to the other parties at their

addresses provided below unless a substitute address is furnished in a notice conforming to this paragraph:

BRA:

Boston Redevelopment Authority
One City Hall Square
Boston, Massachusetts 02201
Attention: Director

with a copy to:

Boston Redevelopment Authority
Building 33
Charlestown Navy Yard
Charlestown, Massachusetts 02129
Attention: Chief General Counsel

Prudential:

The Prudential Insurance Company of America
Social Investments Unit
Prudential Plaza
15th Floor
Newark, New Jersey 07102

With a copy to:

Prudential Realty Group
Prudential Tower
Suite 4800
Boston, Massachusetts 02199
Attention: Regional Counsel; and

Goodwin, Procter & Hoar
Exchange Place
Boston, Massachusetts 02109
Attention: Joseph W. Haley, Esq.

Escrow Agent:

Bank of New England, N.A.
28 State Street
Boston, Massachusetts 02109
Attention: Office in Charge
Corporate Trust Department

Any notice or other communication given by a party under this Agreement to the Escrow Agent shall be given by such party to the other parties hereto simultaneously therewith. Any

notice or communication given by the Escrow Agent under this Agreement to any party hereto shall be given to the other parties hereto simultaneously therewith.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed on their behalf by their respective officer hereunto duly authorized as of the day and year first above written.

BOSTON REDEVELOPMENT AUTHORITY

By: _____

THE PRUDENTIAL INSURANCE COMPANY
OF AMERICA

By: _____

BANK OF NEW ENGLAND, N.A.

By: _____

EXHIBIT H

Cash Needs Schedule for Loan Proceeds

Percentage of Loan Proceeds

Payment Date

15%

December 1, 1989

15%

March 1, 1990

30%

June 1, 1990

40%

September 1, 1990

EXHIBIT I

ESCROW AGREEMENT

THIS AGREEMENT, dated as of this ____ day of December, 1989 by and among the Boston Redevelopment Authority, a body politic and corporate, having an office at One City Hall Square, Boston, Massachusetts 02210 (the "BRA"), The Prudential Insurance Company of America, a New Jersey corporation, having an office at Prudential Plaza, 15th Floor, Newark, New Jersey 07102 ("Prudential") and Bank of New England, N.A., a national banking association, having an office at 28 State Street, Boston, Massachusetts 02109 (the "Escrow Agent").

W I T N E S S E T H :

WHEREAS, the BRA has agreed, pursuant to clause (ii) of Paragraph 5 of that certain Loan and Security Agreement, dated as of even date herewith, by and among the Neighborhood Housing Trust (the "Trust"), the BRA and Prudential (the "Loan Agreement"), to deposit certain sums in escrow as security for the obligations of the BRA to enforce the obligations of the Obligors (as defined in the Loan Agreement); and

WHEREAS, the BRA and Prudential desire to appoint Escrow Agent as escrow agent to hold such funds and disburse the same in accordance with the terms of this Agreement.

NOW THEREFORE, in consideration of the mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Escrow Agent is hereby appointed escrow agent and all funds deposited with it hereunder, whether on this date or hereafter (collectively, the "Enforcement Fund"), shall be held in escrow on the terms and conditions of this Agreement.
2. The Enforcement Fund shall be invested and reinvested in either certificates of deposit or FDIC insured money market accounts, as directed by the BRA. In either case, the maturity of any investment shall not exceed 30 days.
3. Escrow Agent shall disburse to the BRA, from time to time as net interest accrues upon the Enforcement Fund, the amount of any such interest.
4. Escrow Agent shall disburse to the BRA, from time to time upon delivery by the BRA to Escrow Agent (with a copy to Prudential) of a direction for payment stating that a portion of the Enforcement Fund shall be required in order reimburse the BRA for expenses incurred in connection with its enforcing

the obligations of any Obligor pursuant to the terms of the Loan Agreement, the amount specified in such demand.

5. If, at any time after the disbursement by Escrow Agent of any funds pursuant to Paragraph 4 hereof, the BRA obtains reimbursement of any sums expended to so enforce the obligations of an Obligor, such reimbursement shall be deemed to be part of the Enforcement Fund and the BRA shall promptly remit the same to Escrow Agent (except that in no event shall the Enforcement Fund exceed \$50,000).

6. Upon payment by or on behalf of the Trust of the last installment due under all of the Notes, the BRA may direct Escrow Agent to disburse the balance of the Enforcement Fund to it by giving Prudential and Escrow Agent notice that the payment of such last installment has made and requesting the disbursement to it of the balance of the Enforcement Fund. Unless Prudential objects to such disbursement in a notice given to the BRA and Escrow Agent within fifteen (15) business days of the date Prudential's Social Investing Unit confirms receipt in writing to the BRA and Escrow Agent of the BRA's request for disbursement, which confirmation of receipt shall be given promptly after the BRA's request for disbursement is received by Prudential's Social Investing Unit, Escrow Agent shall disburse such funds to the BRA and this Agreement shall then terminate and be of no further force or effect. If Prudential objects in a timely fashion to the disbursement of the balance of the Enforcement Fund to the BRA, Escrow Agent shall continue to hold the Enforcement Fund in escrow until it receives written instructions to do otherwise, signed by both Prudential and the BRA.

7. (a) Escrow Agent's fees for acting hereunder shall be \$1,200 for each twelve month period during the term of this Agreement and shall be deducted by Escrow Agent from the first interest which accrues hereunder during the twelve month period in question.

(b) Escrow Agent shall be entitled to rely upon any notice, signature or writing which it shall in good faith believe to be genuine and to be signed or presented by a proper party or parties. Escrow Agent may consult with its counsel, or counsel of any of the other parties hereto, and shall not be held liable for any action taken or omitted in good faith on advice of such counsel. The other parties hereto jointly and severally agree to indemnify, protect and hold Escrow Agent harmless from any and all loss, liability and expense for anything which is done or omitted by it in good faith and not contrary to the express provisions of this Agreement or a notice or writing delivered to it hereunder and will reimburse the Escrow Agent for all its losses and expenses, including counsel fees, incurred by it in the performance of its duties

and responsibilities hereunder except those which may be occasioned by Escrow Agent's own gross negligence or willful misconduct.

(c) Escrow Agent shall not be required to recognize any other agreement between the other parties hereto even though reference thereto may be made herein or copies or provisions thereof may be annexed as exhibits hereto and whether or not it may have knowledge thereof; it being the intent of the parties hereto that Escrow Agent's duties and responsibilities are only those as are expressly set forth therein. Escrow Agent shall have no responsibility whatsoever with respect to the undertakings of any other party hereto or to any notices or undertakings of anyone not a party hereto.

8. All notices and other communications given under this Agreement shall be in writing and delivered by receipted hand delivery or mailed, postage prepaid, by registered or certified mail, return receipt requested, to the other parties at their addresses provided below unless a substitute address is furnished in a notice conforming to this paragraph:

BRA:

Boston Redevelopment Authority
One City Hall Square
Boston, Massachusetts 02201
Attention: Director

with a copy to:

Boston Redevelopment Authority
Building 33
Charlestown Navy Yard
Charlestown, Massachusetts 02129
Attention: Chief General Counsel

Prudential:

The Prudential Insurance Company of America
Social Investments Unit
Prudential Plaza
15th Floor
Newark, New Jersey 07102

With a copy to:

Prudential Realty Group
Prudential Tower
Suite 4800
Boston, Massachusetts 02199
Attention: Regional Counsel; and

Goodwin, Procter & Hoar
Exchange Place
Boston, Massachusetts 02109
Attention: Joseph W. Haley, Esq.

Escrow Agent:

Bank of New England, N.A.
28 State Street
Boston, Massachusetts 02109
Attention: Office in Charge
Corporate Trust Department

Any notice or other communication given by a party under this Agreement to the Escrow Agent shall be given by such party to the other parties hereto simultaneously therewith. Any notice or communication given by the Escrow Agent under this Agreement to any party hereto shall be given to the other parties hereto simultaneously therewith.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed on their behalf by their respective officer hereunto duly authorized as of the day and year first above written.

BOSTON REDEVELOPMENT AUTHORITY

By: _____

THE PRUDENTIAL INSURANCE COMPANY
OF AMERICA

By: _____

BANK OF NEW ENGLAND, N.A.

By: _____

PROMISSORY NOTE

\$2,525,000

December 7th, 1989

FOR VALUE RECEIVED, the NEIGHBORHOOD HOUSING TRUST (the "Trust"), a Massachusetts public charitable trust, with an address of 1010 Massachusetts Avenue, Boston, Massachusetts 02118 (the "Borrower"), promises to pay to the order of the PRUDENTIAL INSURANCE COMPANY OF AMERICA, a New Jersey corporation (together with any successor holder or holders of this Note, "Lender") at its office at Prudential Plaza, 15th Floor, Newark, New Jersey 07102, or such other place as Lender may designate, the sum of Two Million Five Hundred Twenty Five Thousand Dollars (\$2,525,000) as hereinafter set forth.

The principal balance of this Note shall be payable without interest in equal annual installments of Two Hundred Ten Thousand Four Hundred Sixteen and 66/100 Dollars (\$210,416.66) each on the twenty-fourth day of April of each calendar year beginning with the 24th day of April, 1991. The aforesaid payments are equal to the payments ("Linkage Payments") which are required to be made by New England Mutual Life Insurance Company and Gerald D. Hines Interests, Inc. or any successor thereto (the "Obligor") under its Development Impact Project Agreement, dated June 28, 1985, as amended on May 11, 1988 (the "DIP Agreement").

The entire outstanding principal balance of this Note shall be paid on April 24, 2002.

In the event that any regularly scheduled payment due hereunder is not paid when due, Lender shall have the right to draw down upon the "Debt Service Reserve" created pursuant to Paragraph 3 of that certain Loan and Security Agreement of even date herewith between the BRA, the Trust and Lender (the "Loan Agreement") in accordance with the terms and conditions of that certain Escrow Agreement of even date herewith between the BRA, Lender and Bank of New England, N.A. (the "Escrow Agreement" and, together with the Loan Agreement and this Promissory Note, (the "Loan Documents").

Lender agrees that except for the right to draw down upon the Debt Service Reserve as aforesaid, Borrower shall not be personally liable for any deficiency between the annual installments due hereunder and the annual installments of Linkage Payments paid by the Obligor under its DIP Agreement which may arise except that in the event the City of Boston or any instrumentality thereof should at any time impose, assess or levy any excise or tax upon the project with respect to

which the Linkage Payments are payable or the Obligor in connection therewith, the Trust shall be personally liable for the Excise Deficiency (as defined in Paragraph 6 of the Loan Agreement). In addition, in connection with any determination or redetermination of the amount of Linkage Payments required to be made by the Obligor or the timing of such payments, the Trust shall be personally liable for any Prepayment Amount (as defined in Paragraph 9 of the Loan Agreement). In no event shall this provision be deemed to diminish in any way the powers of Lender to exercise its rights provided under the Loan Documents or under law in the event of a default by Borrower thereunder.

The failure of Lender at any time to exercise any option or right hereunder or under the other Loan Documents shall not constitute a waiver of Lender's right to exercise such option or right at any other time.

This Note shall be governed by, construed, and enforced in accordance with the laws of the Commonwealth of Massachusetts. If any provision of this Note is held to be invalid or unenforceable by a court of competent jurisdiction, the other provisions of this Note shall remain in full force and effect.

This Note shall have the effect of an instrument under seal.

WITNESS:

BORROWER:

NEIGHBORHOOD HOUSING TRUST

Thomas J. McElroy
12-7-89
Thomas J. McElroy

By: *Lawrence Dwyer*
By: *[Signature]*

PROMISSORY NOTE

\$2,500,000

December 7th, 1989

FOR VALUE RECEIVED, the NEIGHBORHOOD HOUSING TRUST (the "Trust"), a Massachusetts public charitable trust, with an address of 1010 Massachusetts Avenue, Boston, Massachusetts 02118 (the "Borrower"), promises to pay to the order of the PRUDENTIAL INSURANCE COMPANY OF AMERICA, a New Jersey corporation (together with any successor holder or holders of this Note, "Lender") at its office at Prudential Plaza, 15th Floor, Newark, New Jersey 07102, or such other place as Lender may designate, the sum of Two Million Five Hundred Thousand Dollars (\$2,500,000) as hereinafter set forth.

The principal balance of this Note shall be payable without interest in equal annual installments of Two Hundred Fifty Thousand and 00/100 Dollars (\$250,000.00) each on the first day of October of each calendar year beginning with the 1st day of October, 1990. The aforesaid payments are equal to the payments ("Linkage Payments") which are required to be made by 99 State Street Limited Partnership or any successor thereto (the "Obligor") under its Development Impact Project Agreement, dated June 18, 1985, as amended on November 22, 1985 (the "DIP Agreement").

The entire outstanding principal balance of this Note shall be paid on October 1, 1999.

In the event that any regularly scheduled payment due hereunder is not paid when due, Lender shall have the right to draw down upon the "Debt Service Reserve" created pursuant to Paragraph 3 of that certain Loan and Security Agreement of even date herewith between the BRA, the Trust and Lender (the "Loan Agreement") in accordance with the terms and conditions of that certain Escrow Agreement of even date herewith between the BRA, Lender and Bank of New England, N.A. (the "Escrow Agreement" and, together with the Loan Agreement and this Promissory Note, (the "Loan Documents").

Lender agrees that except for the right to draw down upon the Debt Service Reserve as aforesaid, Borrower shall not be personally liable for any deficiency between the annual installments due hereunder and the annual installments of Linkage Payments paid by the Obligor under its DIP Agreement which may arise except that in the event the City of Boston or any instrumentality thereof should at any time impose, assess or levy any excise or tax upon the project with respect to which the Linkage Payments are payable or the Obligor in

connection therewith, the Trust shall be personally liable for the Excise Deficiency (as defined in Paragraph 6 of the Loan Agreement). In addition, in connection with any determination or redetermination of the amount of Linkage Payments required to be made by the Obligor or the timing of such payments, the Trust shall be personally liable for any Prepayment Amount (as defined in Paragraph 9 of the Loan Agreement). In no event shall this provision be deemed to diminish in any way the powers of Lender to exercise its rights provided under the Loan Documents or under law in the event of a default by Borrower thereunder.

The failure of Lender at any time to exercise any option or right hereunder or under the other Loan Documents shall not constitute a waiver of Lender's right to exercise such option or right at any other time.

This Note shall be governed by, construed, and enforced in accordance with the laws of the Commonwealth of Massachusetts. If any provision of this Note is held to be invalid or unenforceable by a court of competent jurisdiction, the other provisions of this Note shall remain in full force and effect.

This Note shall have the effect of an instrument under seal.

WITNESS:

BORROWER:
NEIGHBORHOOD HOUSING TRUST

Thomas J. Malley
Thomas J. Malley 12/1/89
by: *Laurence Dwyer*
12/1/89

Escrow Account Agreement

This Escrow Account Agreement (this "Agreement") is dated as of December 8, 1989 and is by and among State Street Bank and Trust Company, as Escrow Agent, having a principal place of business at 225 Franklin Street, Boston, Massachusetts 02110 (the "Escrow Agent"), The Prudential Insurance Company of America having a principal place of business at Prudential Plaza, 15th Floor, Newark, New Jersey 07102 ("Prudential"), Metropolitan Life Insurance Company having a principal place of business at One Madison Avenue, New York, New York 10010 ("Metropolitan"), and the Boston Redevelopment Authority having a principal place of business at One City Hall Square, Boston, Massachusetts 02201 ("BRA"). Prudential, Metropolitan and BRA are sometimes collectively referred to herein as the "Principals".

WHEREAS, pursuant to a Loan and Security Agreement (the "Loan and Security Agreement") dated December 5, 1989 among Prudential, the BRA and the Neighborhood Housing Trust (the "Trust"), Prudential is loaning \$3,049,761.29 to the Trust and the Trust is issuing to Prudential Promissory Notes secured by certain Development Impact Project Agreements; and

WHEREAS, pursuant to a Loan Agreement (the "Loan Agreement") dated December 1, 1989 among Metropolitan, the BRA and the Trust, Metropolitan is loaning up to \$7,439,743 (and up to an additional \$460,257 upon authorization to borrow such additional amount by the Trust) to the Trust and the Trust is issuing to Metropolitan Promissory Notes secured by certain Development Impact Project Agreements (which Metropolitan Promissory Notes, and the Prudential Promissory Notes described above, are sometimes together referred to herein as the "Notes"); and

WHEREAS, the Principals pursuant to the Loan and Security Agreement and the Loan Agreement have agreed that the BRA will establish a \$250,000 litigation escrow account to be used to finance defense by the BRA to legal challenges to Articles 26 and 26A of the Boston Zoning Code; and

WHEREAS, the Principals seek to establish with and through the Escrow Agent an escrow account to be held and administered by the Escrow Agent in accordance with the terms of this Agreement; and

NOW THEREFORE, in consideration of the mutual covenants herein contained, and to induce the Escrow Agent to enter into this Agreement, and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, each of the Principals hereby represents and warrants to, and agrees and covenants with, the Escrow Agent as follows:

1. Escrow Account. The Principals each hereby request and authorize the Escrow Agent to establish an account to be identified as "The Prudential/Metropolitan/BRA Account" (referred to herein as the "Escrow Account"), which shall be held and administered by the Escrow Agent in accordance with this Agreement.

2. Deposit.

2.1 On or before December 8, 1989 (the "Proposed Settlement Date") the BRA shall deliver to the Escrow Agent for deposit into the Escrow Account an amount (in one or more payments) of not less than \$250,000 in the aggregate in immediately available funds specified for deposit into the Escrow Account (the "Deposit"). Such amount (or amounts) shall be deposited in or credited to the Escrow Account and shall be held, administered and disbursed by the Escrow Agent in accordance with and subject to the terms of this Agreement.

2.2 It is specifically agreed and understood that the Escrow Agent shall only be responsible and accountable for, and the provisions hereof shall only be applicable to, moneys actually received by the Escrow Agent and specifically identified as part of the Deposit, as provided above. Any and all credits and payments to the Escrow Account or other items deemed to be added to the Escrow Account are conditional upon clearance and actual receipt of final payment thereof by the Escrow Agent, and the Escrow Agent shall be entitled to refrain from recognizing (or otherwise administering or disbursing), and shall have absolutely no responsibility with respect to, any such credits, payments or other items until actual payment thereof is received.

3. Terms of Escrow; Duties of Escrow Agent.

3.1 Each of the Principals acknowledges that the terms of the Prudential Loan and Security Agreement and the Metropolitan Loan Agreement (sometimes referred to herein together as the "Related Agreements") provide that in the event of any challenge to the legality of all or any portion of Articles 26 and/or 26A of the Boston Zoning Code, or the legality of Chapter 371 of the Statutes of 1987 of the Commonwealth of Massachusetts (a "Legal Challenge"), the BRA shall be and is entitled to withdraw funds from the Escrow Account for payment and/or reimbursement of its legal and other expenses arising out of any such Legal Challenge.

3.2 The terms of escrow under this Agreement shall be as follows:

a. The BRA may at any time or times request the release of available amounts held in the Escrow Account by delivery of a letter from the Director of the BRA (a "Request Letter") to the Escrow Agent, with

copies also sent by the BRA to Prudential and Metropolitan. Any such Request Letter shall (i) make reference to this Agreement; (ii) specify the total amount requested to be withdrawn from the Escrow Account; (iii) state that the requested withdrawal complies with the applicable terms of this Agreement, that the amounts so withdrawn shall be applied to the expenses set forth on the accompanying itemization, and that no expense identified in the accompanying itemization has been the subject of a prior Request Letter; and (iv) be accompanied by an itemization of all expenses involved in the Legal Challenge for which payment and/or reimbursement is sought, certified by the Director of the BRA to be true and accurate, together with copies of any bills and receipts evidencing such itemized expenses; provided, however, that a Request Letter shall not be submitted to the Escrow Agent more frequently than once every thirty (30) days.

b. If a Responsible Officer of the Escrow Agent has not received written objection from either Prudential or Metropolitan within ten (10) business days after the Escrow Agent receives any such Request Letter, the Escrow Agent shall be fully and conclusively authorized to release to the BRA the amounts requested in such Request Letter from any available funds held in the Escrow Account; however, if either Prudential or Metropolitan objects to the release of funds pursuant to such Release Letter by written objection received by a Responsible Officer of the Escrow Agent within such ten (10) day period, the Escrow Agent shall await instructions from all of the Principals before releasing any funds to the BRA pursuant to such Release Letter. As used herein, "Responsible Officer" of the Escrow Agent shall mean any vice president, assistant vice president, assistant secretary, or other similar officer assigned to and working in its Corporate Trust Department; and "business day" shall mean any day other than a Saturday or a Sunday or any other day on which the Escrow Agent is not open for the conduct of business.

3.3 If the Request Letter so specifies, payment may be made by wire transfer, provided that proper wire transfer instructions are included in the Request Letter (or other standing instruction given to the Escrow Agent by the BRA) to the Escrow Agent; otherwise, payment will be made by check made payable to the payee and mailed by first class mail, postage prepaid, at the address indicated in the Request Letter (or other standing instruction given to the Escrow Agent by the BRA). Wiring charges or costs may be deducted from the related payment, unless the BRA otherwise directs; any wiring charges

or costs not deducted from the related payment shall be paid by the BRA to the Escrow Agent under the provisions of Section 4 hereinbelow.

3.4 The Escrow Agent shall invest the funds held in such Escrow Account as the BRA may instruct from time to time, in accordance with Section 4 below. The Escrow Agent shall, upon request, furnish periodic statements to the Principals reflecting the activity in the Escrow Accounts since the most recent such statement, in each case in the usual form furnished by the Escrow Agent for such type of accounts.

3.5 The Escrow Agent shall have no responsibilities or duties in respect of the Escrow Account, except for such responsibilities as are expressly set forth in this Agreement. The Escrow Agent shall be entitled at all times to refrain from taking any action not expressly addressed or permitted by the terms of this Agreement unless it has instruction (in satisfactory form) from each of the Principals, and the Escrow Agent shall in all events have absolutely no liability, risk or cost for any action taken pursuant to the joint or several instruction of all the Principals.

3.6 The proceeds of any investment of funds shall be credited to the Escrow Account and shall be paid to the BRA periodically, not less than once every six (6) months, provided that the total amount in the Escrow Account (not including the amount of such investment proceeds to be paid to the BRA) is \$250,000 or more, unless otherwise instructed or consented to in writing by all of the Principals; at all times prior to such periodic payments to the BRA, however, all investment earnings received and held by the Escrow Agent shall constitute a part of the Escrow Account and shall be subject to this Agreement. The Escrow Agent shall have no obligation to invest (or otherwise to pay any interest on) any funds held on or credited to the Escrow Account in the absence of receipt by the Escrow Agent of adequate investment instructions from the BRA in accordance with Section 4 below. The Escrow Agent shall have absolutely no responsibility or liability for any loss on any investment.

4. Investment

4.1. Funds held in the Escrow Account from time to time may be invested at the written direction of the Director of the BRA to the Trustee in Eligible Investments. For purposes hereof, "Eligible Investments" shall mean (i) United States Treasury Bills with maturities of twelve months or less, and (ii) any other debt obligation approved in writing by Metropolitan and Prudential. Any Request Letter submitted to the Escrow Agent shall be subject to the availability and liquidity of funds in the Escrow Account at the time; the Escrow Agent shall have no obligation to liquidate any

investment prior to its maturity. The Escrow Agent shall have no obligation to invest (or to pay interest on any funds held by it) absent receipt of written instruction from the BRA selecting and requesting such investment in accordance with this paragraph 4.1.

4.2. All investments shall be at the sole risk, cost and liability of the BRA. The Escrow Agent shall have absolutely no obligation to make any investment other than in accordance with paragraph 4.1 of this Section 4, and in any event shall be accountable only for proceeds thereof actually received by it.

5. Fees and Expenses. In regard to the legal fees and expenses of Peabody & Arnold incurred in the preparation of this Agreement, the BRA has agreed, in Section 8.1 of the Loan Agreement, to pay a total of \$10,000 of the legal fees and expenses of Peabody & Arnold relating to the Loan from Metropolitan described in that Loan Agreement. Such \$10,000 is the only amount which the BRA and the Neighborhood Housing Trust are obligated to pay Peabody & Arnold for services performed for preparation of any document, including this Agreement, relating to the transaction described in the Loan Agreement. Metropolitan hereby agrees to pay the balance of fees and expenses incurred by the Trustee, including legal fees and expenses of Peabody & Arnold, in connection with the preparation of this Agreement and any other agreements relating to the Loan from Metropolitan to the Neighborhood Housing Trust (in addition to the portion paid by BRA) up to an amount equal to \$8,000 in fees plus all out-of-pocket disbursements. Subject to the foregoing, the BRA agrees to pay the Escrow Agent reasonable compensation for the Escrow Agent's normal services hereunder in accordance with the attached Fee Schedule, and the BRA agrees to reimburse the Escrow Agent for any and all legal fees and expenses incurred in connection with the preparation or administration of this Agreement. The Escrow Agent shall also be entitled to (and the BRA hereby agrees to be responsible for) reimbursement by the BRA, payable to the Escrow Agent on demand, for all costs and expenses incurred by the Escrow Agent in performing its duties under this Agreement, or in the preparation or administration of this Agreement, which are in excess of its compensation for normal services hereunder, including but not limited to attorneys' fees and expenses incurred in connection with the resolution of any claim by or against any party hereunder. Payment of such fees, costs and expenses shall be made by the BRA upon demand by the Escrow Agent. Without limitation of the generality of the foregoing, the BRA, Prudential and Metropolitan agree among themselves that the BRA shall indemnify Prudential and Metropolitan and hold them harmless from and against any costs, losses, expenses, damages, claims, liability or obligations which Prudential and/or Metropolitan may have pursuant to the provisions of paragraph 6(j) or Section 9 hereof.

6. Responsibilities of Escrow Agent. The acceptance by the Escrow Agent of its duties under this Agreement is expressly subject to the following terms and conditions, which the parties to this Escrow Agreement each hereby agree shall govern and control with respect to the Escrow Agent's rights, duties, liabilities and immunities:

a. The Escrow Agent may rely on and shall be protected in acting or refraining from acting upon any written notice, instruction, statement, request, waiver, consent, receipt or other paper or document furnished to it, not only as to its due execution and validity, but also as to the truth and accuracy of any information therein contained, which it in good faith believes to be genuine and signed or presented by the proper person, and shall have no responsibility for determining the accuracy thereof.

b. Neither the Escrow Agent nor any of its directors, officers or employees shall be liable to anyone for any error of judgment, or for any act done or step taken or omitted to be taken by it or any of its directors, officers or employees, or for any mistake of fact or law, or for anything which it may do or refrain from doing in connection herewith, unless such action constitutes gross negligence or is not taken in good faith. In no event shall the Escrow Agent be liable for any indirect, special or consequential damages.

c. The Escrow Agent may consult with, and obtain advice from, legal counsel satisfactory to it (which may include house counsel) with respect to any question as to any of the provisions hereof or its duties hereunder, or any matter relating hereto, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by the Escrow Agent in good faith in accordance with the opinion and directions of such counsel. The cost of such services shall be reimbursed by the BRA to the Escrow Agent on demand.

d. The Escrow Agent shall not be responsible for any of the agreements referred to herein, and shall have no duties or obligations except those which are expressly set forth herein, and no implied covenants, duties, or obligations on the part of the Escrow Agent shall be read into this Agreement.

e. The Escrow Agent shall not be deemed to have notice of any fact, claim or demand with respect hereto unless actually known by an officer charged with responsibility for administering this Agreement or unless in writing received by the Escrow Agent and specifically referencing this Agreement and the BRA.

f. No provision of this Agreement shall require the Escrow Agent to expend or risk its own funds, or to take any

legal or other action hereunder which might in its judgment involve any expense or any financial or other liability unless it shall be furnished with acceptable indemnification.

g. The permissive right of the Escrow Agent to take any action hereunder shall not be construed as duty.

h. Monies held by the Escrow Agent pursuant to the Agreement need not be segregated from other funds except to the extent expressly required by applicable law.

i. All indemnifications contained in this Agreement shall survive the termination of this Agreement.

j. The Principals shall and do each hereby, jointly and severably, indemnify and hold harmless, and shall defend, the Escrow Agent for and from any and all costs, losses, expenses, damages, claims and liabilities that may arise, be brought against or incurred by Escrow Agent as a result of, relating to, or arising out of this Agreement, or the administration or performance of the Escrow Agent's duties hereunder, or the relationship between the Escrow Agent and any one or more of the Principals created hereby, (including but not limited to legal fees and other costs and expenses of defending or preparing to defend any claim or liability in the premises) other than such liabilities as are directly caused by the Escrow Agent's actions taken in bad faith or constituting gross negligence.

k. The Escrow Agent shall have no responsibility to determine or inquire whether any action taken (or omission) in connection with this Agreement complies with the applicable terms, if any, imposed upon any of the Principals, or to which they may be subject, under the Loan and Security Agreement and the Loan Agreement.

l. The provisions of paragraphs b., i., and j. of this Section 6, and the provisions of Section 5 and Section 9, of this Agreement shall survive the termination of this Agreement.

m. The Escrow Agent shall have no duties with respect to the Escrow Account except as are expressly set forth in this Agreement, as well as the duty to exercise reasonable care in the physical safekeeping of the funds and any investments held by or credited to the Escrow Account from time to time. Without limiting the generality of the foregoing, the Escrow Agent shall have no obligation to preserve rights against any prior parties.

7. Amendment and Termination. This Escrow Agreement may be amended by the Escrow Agent and the Principals at any time, but only in writing by an instrument signed by all of the

parties. This Agreement shall terminate upon the earlier to occur of the following: (a) when there is a zero balance in the Escrow Account after the Proposed Settlement Date, or (b) resignation by the Escrow Agent pursuant to Section 11 hereinbelow, (c) the date on which all Notes issued pursuant to the Prudential Loan and Security Agreement, and the Metropolitan Loan Agreement have been fully paid and the Collateral Trust Agreement has been defeased, or (d) termination at such time and upon such terms as is otherwise expressly agreed to in writing by and between the Principals and the Escrow Agent; and in each case after all fees and expenses owing to the Escrow Agent have been paid. Upon termination of this Agreement the Escrow Agent shall notify the Principals and, after retaining such amounts as may be necessary to pay any unpaid fees and expenses of the Escrow Agent, the Escrow Agent shall deliver the monies remaining in the Escrow Account, if any, to the BRA.

8. Attachment of Escrow Account, Etc. In case any portion of the Escrow Account shall be attached or levied upon pursuant to an order of court, or the delivery or disbursement thereof shall be stayed or enjoined by an order of court, or any other order, judgment or decree shall be made or entered by any court affecting the Escrow Account or the Deposit, or any part thereof, or any act of the Escrow Agent, the Escrow Agent is hereby expressly authorized in its sole discretion to obey and comply with all orders, judgments or decrees so entered or issued by any court, without the necessity of inquiry whether such court had jurisdiction, and, in case said Escrow Agent obeys or complies with any such order, judgment or decree, it shall not be liable to anyone by reason of such compliance. The Escrow Agent shall give written notice promptly to the Principals if all or any part of the Escrow Account shall be attached or levied upon or otherwise made the res of a judicial action. Should any dispute arise with respect to the Escrow Account, or with respect to the delivery, ownership, right of possession and/or disposition of the Escrow Account, or should any claim be made upon the Escrow Account by a third party, the Escrow Agent upon receipt of any written notice of such dispute or claim by any of the parties hereto or any third party is authorized and directed to retain in its possession without liability to anyone, all or any part of the Escrow Account until such dispute shall have been settled either by mutual agreement of the parties concerned or by a final order, decree or judgment of a court of competent jurisdiction with the time for appeal having expired and no appeal having been taken. The Escrow Agent may, but shall be under no duty to, institute or defend any such proceedings relating to the Escrow Account.

9. Compliance with Tax Laws. The Principals each hereby agree, jointly and severally, to assume any and all obligations imposed now or hereafter by any applicable tax law with respect to the payment of the Escrow Account under this Agreement, and

to indemnify and hold the Escrow Agent harmless from and against any taxes, additions for late payment, interest, penalties and other expenses, that may be assessed against the Escrow Agent on any such payment or other activities under this Agreement. The Principals each agree to undertake to instruct the Escrow Agent in writing with respect to the Escrow Agent's responsibility for withholding and other taxes, assessments and other governmental charges, certifications and governmental reporting in connection with its acting as Escrow Agent under this Agreement. The Principals each shall and do hereby agree, jointly and severally to indemnify and hold the Escrow Agent harmless from any liability on account of taxes, assessments or other governmental charges, including without limitation the withholding or deduction or the failure to withhold or deduct same, and any liability for failure to obtain proper certifications or to properly report to governmental authorities, to which the Escrow Agent may be or become subject in connection with or which arises out of this Agreement, including costs and expenses (including reasonable legal fees), interest and penalties.

10. Depository: Subagents. The Escrow Agent shall have no more or less responsibility or liability on account of any action or omission of any book-entry depository or sub-escrow agent employed by the Escrow Agent than any such book-entry depository or sub-escrow agent has to the Escrow Agent, except to the extent that such action or omission of any book-entry depository or sub-escrow agent was caused by the Escrow Agent's own gross negligence or bad faith. The Escrow Agent shall not appoint a sub-escrow agent under this Agreement without the written consent of each of the Principals.

11. Resignation. The Escrow Agent may at any time resign as Escrow Agent hereunder by giving fifteen (15) days' prior written notice of resignation to the Principals. Prior to the effective date of the resignation as specified in such notice, the Principals shall issue to the Escrow Agent a written instruction authorizing redelivery of the Escrow Account to a bank or trust company that it selects to act as successor escrow agent. Such bank or trust company shall have a principal office in Boston, Massachusetts, and shall have capital, surplus and undivided profits in excess of \$50,000,000. If, however, the Principals shall fail to name such a successor escrow agent within twenty (20) days after the notice of resignation from the Escrow Agent, the BRA shall be entitled to name such successor escrow agent. If no successor escrow agent is named by the Principals or the BRA, the Escrow Agent may apply to a court of competent jurisdiction for appointment of a successor escrow agent.

12. Consent to Jurisdiction and Service. Each of the Principals hereby absolutely and irrevocably consents and submits to the jurisdiction of the courts of the Commonwealth

of Massachusetts and of any Federal court located in said Commonwealth in connection with any actions or proceedings brought by or against any one or more of the Principals, or by or against the Escrow Agent, arising out of or relating to this Agreement. In any such action or proceeding, each of the Principals hereby absolutely and irrevocably waives personal service of any summons, complaint, declaration or other process and hereby absolutely and irrevocably agrees that the service thereof may be made by certified or registered first-class mail directed to the Principals in accordance with Section 15 hereof.

13. Force Majeure. The Escrow Agent shall not be responsible for delays or failures in performance resulting from acts beyond its control. Such acts shall include but shall not be limited to acts of God, strikes, lockouts, riots, acts of war, epidemics, governmental regulations superimposed after the fact, fire, communication line failures, power failures, earthquakes or other disasters.

14. Parties in Interest; No Third Party Benefit. This Escrow Agreement shall be binding upon and inure to the benefit of the respective successors and assigns of the parties hereto. This Agreement is not intended for, and shall not be construed to be intended for, the benefit of any third parties and may not be relied upon or enforced by any third parties.

15. Notices, etc. All notices, applications and other communications hereunder shall be in writing and shall be deemed to have been given or made when delivered, or mailed by first class certified or registered mail, postage prepaid and sent by telecopy transmission to the applicable address and telecopy number appearing below (or to such other address or telecopy or telex number, as the case may be, as any of the parties may designate from time to time by written notice sent to the other parties):

(i) If to Prudential, at Prudential Plaza, 15th Floor, Newark, New Jersey 07102, Attention: Social Investments Unit, (Telecopy No. 201-802-3345);

(ii) If to Metropolitan, at 200 Park Avenue, 21st Floor, New York, NY 10166, Attention: Vice President, Real Estate Investments, Northeastern Office, (Telecopy No.: 212-692-5789); with a copy also sent to One Financial Center, 33rd Floor, Boston, MA 02110, Attention: Regional Manager (Telecopy No.: 617-423-9502);

(iii) If to the BRA, at One City Hall Square, Boston, MA 02201, Attention: Director (Telecopy No. 617-742-8904); and

(iv) If to the Escrow Agent, at State Street Bank and Trust Company, 225 Franklin Street, Boston Massachusetts 02110, Attention: Corporate Trust Department, Marsha Hanson, Assistant Vice President (Telecopy No. 617-654-4266).

16. Headings. The headings set forth in this Agreement appear for convenience only and shall not affect the interpretation of this Agreement.

17. Waivers. No course of conduct shall constitute a waiver of any of the terms and conditions of this Agreement, unless such waiver is specified in writing, and then only to the extent so specified. A waiver of any of the terms and conditions of this Agreement on one occasion shall not constitute a waiver of the other terms of this Agreement, or of such terms and conditions on any other occasion.

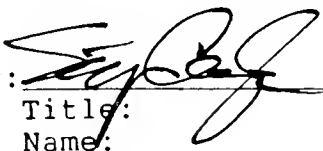
18. Severability. If any term hereof is determined to be invalid or unenforceable, such determination shall not affect the remaining terms.

19. Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, and it shall not be necessary in making proof of this Agreement to produce or account for more than one such counterpart.

20. Governing Law. This Agreement shall be construed and enforced in accordance with, and rights of the parties shall be governed by, the laws of the Commonwealth of Massachusetts.

IN WITNESS WHEREOF, each of the parties has caused this Agreement to be executed and delivered, as an instrument under seal, by a duly authorized officer, as of the date first above written.

Boston Redevelopment Authority

By: 
Title:
Name:

Metropolitan Life Insurance
Company

By: John F. Loehr
Title: REGIONAL MANAGER
Name: JOHN F. LOEHR

The Prudential Insurance
Company of America

By: _____
Title: _____
Name: _____

Accepted as of the ____ day of _____, 1989:

STATE STREET BANK AND TRUST COMPANY

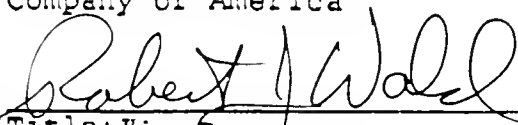
By: _____
Title: Vice President
Name: _____

2950/RJC

Metropolitan Life Insurance
Company

By: _____
Title:
Name:

The Prudential Insurance
Company of America

By:  _____
Title: Vice President
Name: Robert J. Walsh

Accepted as of the ____ day of _____, 1989:

STATE STREET BANK AND TRUST COMPANY

By: _____
Title: Vice President
Name:

2950/RJC

Metropolitan Life Insurance
Company

By: _____

Title:

Name:

The Prudential Insurance
Company of America

By: _____

Title:

Name:

Accepted as of the 8th day of December, 1989:

STATE STREET BANK AND TRUST COMPANY

By:  _____

Title: Vice President

Name: PHILIP M. CRIMMINS

2950/RJC

The Prudential/Metropolitan/BRA Account
Escrow
Fee Schedule


Acceptance Fee (One Time) \$1,500.00

Covers the complete study and consideration of the Escrow Account Agreement and/or other instruments together with all supporting documents up to and including attendance at the closing. This fee is based on funds specified for deposit into the Escrow Account. (the "Deposit")

Annual Flat Fee \$1,500.00
(Payable the 1st year at time of
signing agreement and then billed
semi-annually there-after)

plus any "out-of-pocket" expenses, including counsel fees, would be billed at cost. This fee schedule is subject to review every 5 years from the date of signing the agreement.

State Street Bank and Trust
Company, Corporate Trust Department


Marsha Hanson, Assistant Vice President
(617) 654-4241

MH62

ESCROW AGREEMENT

THIS AGREEMENT, dated as of this 7th day of December, 1989 by and among the Boston Redevelopment Authority, a body politic and corporate, having an office at One City Hall Square, Boston, Massachusetts 02210 (the "BRA"), The Prudential Insurance Company of America, a New Jersey corporation, having an office at Prudential Plaza, 15th Floor, Newark, New Jersey 07102 ("Prudential") and Bank of New England, N.A., a national banking association, having an office at 28 State Street, Boston, Massachusetts 02109 (the "Escrow Agent").

W I T N E S S E T H :

WHEREAS, the BRA has agreed, pursuant to Paragraph 3 of December 5, 1989 that certain Loan and Security Agreement, dated as of ~~even date herewith~~, by and among the Neighborhood Housing Trust (the "Trust"), the BRA and Prudential (the "Loan Agreement"), to deposit certain sums in escrow as further security for the obligations of the Trust under the Loan Agreement and the promissory notes delivered by the Trust to Prudential in connection therewith (the "Notes"); and

WHEREAS, the BRA and Prudential desire to appoint Escrow Agent as escrow agent to hold such funds and disburse the same in accordance with the terms of this Agreement.

NOW THEREFORE, in consideration of the mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Escrow Agent is hereby appointed escrow agent and all funds deposited with it hereunder, whether on this date or hereafter, and any interest accrued thereon (collectively, the "Debt Service Reserve"), shall be held in escrow on the terms and conditions of this Agreement.

2. The Debt Service Reserve shall be invested and reinvested in either certificates of deposit or FDIC insured money market accounts, as directed by Prudential. In either case, the maturity of any investment shall not exceed 30 days.

3. Escrow Agent shall disburse to Prudential, from time to time upon delivery by Prudential to Escrow Agent of a direction for payment stating either (i) that all or any portion of an installment due from the Trust under any of the Notes has not been timely paid, for any reason whatsoever (including, without limitation, monetary default by any project developer ("Obligor") making payments due under its DIP

Agreement (as defined in the Loan Agreement) whether to the Trust or directly to Prudential) or (ii) that by virtue of the recalculation of the loan proceeds pursuant to the terms of the Loan Agreement, a prepayment by the Trust is required, the amount specified in such demand as the amount then due and owing to Prudential. In addition, when any Obligor makes the final payment pursuant to its DIP Agreement and such payment is received by Prudential, notice of which Prudential shall give to Escrow Agent, the Debt Service Reserve shall be proportionately reduced by a fraction the numerator of which is the annual linkage payment of the Obligor in question and the denominator of which is the total aggregate annual linkage payment payable by all of the Obligors which are assigned to Prudential pursuant to the Loan Agreement. The amount by which the Debt Service Reserve shall be reduced pursuant to the preceding sentence shall be set forth in the aforesaid notice by Prudential to Escrow Agent and disbursed to the Trust by Escrow Agent.

4. If, at any time after the disbursement by Escrow Agent of any funds pursuant to Paragraph 3 hereof, an Obligor makes payment to either the Trust, the BRA or Prudential of all or a portion of the amount with respect to which such disbursement was made by Escrow Agent to Prudential, such payment shall be deemed to be part of the Debt Service Reserve and the party receiving such payment shall promptly remit the same to Escrow Agent.

5. Upon payment by or on behalf of the Trust of the last installment due under all of the Notes, the BRA may direct Escrow Agent to disburse the balance of the Debt Service Reserve to it by giving Prudential and Escrow Agent notice that the payment of such last installment has made and requesting the disbursement to it of the balance of the Debt Service Reserve. Unless Prudential objects to such disbursement in a notice given to the BRA and Escrow Agent within fifteen (15) business days of the date Prudential's Social Investing Unit confirms receipt in writing to the BRA and Escrow Agent of the BRA's request for disbursement, which confirmation of receipt shall be given promptly after the BRA's request for disbursement is received by Prudential's Social Investing Unit, Escrow Agent shall disburse such funds to the BRA and this Agreement shall then terminate and be of no further force or effect. If Prudential objects in a timely fashion to the disbursement of the balance of the Debt Service Reserve to the BRA, Escrow Agent shall continue to hold the Debt Service Reserve in escrow until it receives written instructions to do otherwise, signed by both Prudential and the BRA.

6. After the penultimate payment shall have been made by or on behalf of the Trust under both of the Notes, the BRA may direct Escrow Agent to disburse to it the amount by which the Debt Service Reserve exceeds \$460,416.00, if such excess then exists, by giving Prudential and Escrow Agent notice of its request to such effect. Unless Prudential objects to such disbursement within fifteen (15) business days of the BRA's request for disbursement, Escrow Agent shall make such disbursement. If Prudential objects in a timely fashion to such disbursement in the manner specified in Section 5 above, Escrow Agent shall continue to hold such amount in escrow until it receives written instructions to do otherwise, signed by both Prudential and the BRA.

7. (a) Escrow Agent's fees for acting hereunder shall be \$1,200 for each twelve month period during the term of this Agreement and shall be deducted by Escrow Agent from the first interest which accrues hereunder during the twelve month period in question.

(b) Escrow Agent shall be entitled to rely upon any notice, signature or writing which it shall in good faith believe to be genuine and to be signed or presented by a proper party or parties. Escrow Agent may consult with its counsel, or counsel of any of the other parties hereto, and shall not be held liable for any action taken or omitted in good faith on advice of such counsel. The other parties hereto jointly and severally agree to indemnify, protect and hold Escrow Agent harmless from any and all loss, liability and expense for anything which is done or omitted by it in good faith and not contrary to the express provisions of this Agreement or a notice or writing delivered to it hereunder and will reimburse the Escrow Agent for all its losses and expenses, including counsel fees, incurred by it in the performance of its duties and responsibilities hereunder except those which may be occasioned by Escrow Agent's own gross negligence or willful misconduct.

(c) Escrow Agent shall not be required to recognize any other agreement between the other parties hereto even though reference thereto may be made herein or copies or provisions thereof may be annexed as exhibits hereto and whether or not it may have knowledge thereof; it being the intent of the parties hereto that Escrow Agent's duties and responsibilities are only those as are expressly set forth therein. Escrow Agent shall have no responsibility whatsoever with respect to the undertakings of any other party hereto or to any notices or undertakings of anyone not a party hereto.

8. All notices and other communications given under this Agreement shall be in writing and delivered by receipted hand delivery or mailed, postage prepaid, by registered or certified mail, return receipt requested, to the other parties at their

addresses provided below unless a substitute address is furnished in a notice conforming to this paragraph:

BRA:

Boston Redevelopment Authority
One City Hall Square
Boston, Massachusetts 02201
Attention: Director

with a copy to:

Boston Redevelopment Authority
Building 33
Charlestown Navy Yard
Charlestown, Massachusetts 02129
Attention: Chief General Counsel

Prudential:

The Prudential Insurance Company of America
Social Investments Unit
Prudential Plaza
15th Floor
Newark, New Jersey 07102

With a copy to:

Prudential Realty Group
Prudential Tower
Suite 4800
Boston, Massachusetts 02199
Attention: Regional Counsel; and

Goodwin, Procter & Hoar
Exchange Place
Boston, Massachusetts 02109
Attention: Joseph W. Haley, Esq.

Escrow Agent:

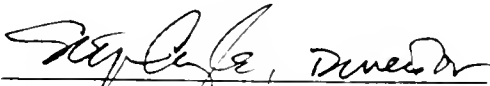
Bank of New England, N.A.
28 State Street
Boston, Massachusetts 02109
Attention: Office in Charge
Corporate Trust Department

Any notice or other communication given by a party under this Agreement to the Escrow Agent shall be given by such party to the other parties hereto simultaneously therewith. Any

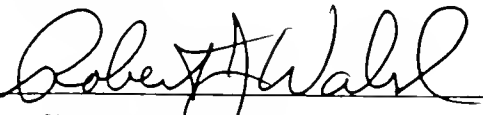
notice or communication given by the Escrow Agent under this Agreement to any party hereto shall be given to the other parties hereto simultaneously therewith.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed on their behalf by their respective officer hereunto duly authorized as of the day and year first above written.


BOSTON REDEVELOPMENT AUTHORITY

By: 
TAX ID# 04-6006356

THE PRUDENTIAL INSURANCE COMPANY
OF AMERICA

By: 
Vice President

BANK OF NEW ENGLAND, N.A.

By: 
Gerald R. Wheeler
Vice President

ESCROW AGREEMENT

THIS AGREEMENT, dated as of this 7th day of December, 1989 by and among the Boston Redevelopment Authority, a body politic and corporate, having an office at One City Hall Square, Boston, Massachusetts 02210 (the "BRA"), The Prudential Insurance Company of America, a New Jersey corporation, having an office at Prudential Plaza, 15th Floor, Newark, New Jersey 07102 ("Prudential") and Bank of New England, N.A., a national banking association, having an office at 28 State Street, Boston, Massachusetts 02109 (the "Escrow Agent").

W I T N E S S E T H :

December 5, 1989
WHEREAS, the BRA has agreed, pursuant to clause (ii) of Paragraph 5 of that certain Loan and Security Agreement, dated ~~as of even date herewith~~, by and among the Neighborhood Housing Trust (the "Trust"), the BRA and Prudential (the "Loan Agreement"), to deposit certain sums in escrow as security for the obligations of the BRA to enforce the obligations of the Obligors (as defined in the Loan Agreement); and

WHEREAS, the BRA and Prudential desire to appoint Escrow Agent as escrow agent to hold such funds and disburse the same in accordance with the terms of this Agreement.

NOW THEREFORE, in consideration of the mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Escrow Agent is hereby appointed escrow agent and all funds deposited with it hereunder, whether on this date or hereafter (collectively, the "Enforcement Fund"), shall be held in escrow on the terms and conditions of this Agreement.

2. The Enforcement Fund shall be invested and reinvested in either certificates of deposit or FDIC insured money market accounts, as directed by the BRA. In either case, the maturity of any investment shall not exceed 30 days.

3. Escrow Agent shall disburse to the BRA, from time to time as net interest accrues upon the Enforcement Fund, the amount of any such interest.

4. Escrow Agent shall disburse to the BRA, from time to time upon delivery by the BRA to Escrow Agent (with a copy to Prudential) of a direction for payment stating that a portion of the Enforcement Fund shall be required in order reimburse the BRA for expenses incurred in connection with its enforcing

the obligations of any Obligor pursuant to the terms of the Loan Agreement, the amount specified in such demand.

5. If, at any time after the disbursement by Escrow Agent of any funds pursuant to Paragraph 4 hereof, the BRA obtains reimbursement of any sums expended to so enforce the obligations of an Obligor, such reimbursement shall be deemed to be part of the Enforcement Fund and the BRA shall promptly remit the same to Escrow Agent (except that in no event shall the Enforcement Fund exceed \$50,000).

6. Upon payment by or on behalf of the Trust of the last installment due under all of the Notes, the BRA may direct Escrow Agent to disburse the balance of the Enforcement Fund to it by giving Prudential and Escrow Agent notice that the payment of such last installment has made and requesting the disbursement to it of the balance of the Enforcement Fund. Unless Prudential objects to such disbursement in a notice given to the BRA and Escrow Agent within fifteen (15) business days of the date Prudential's Social Investing Unit confirms receipt in writing to the BRA and Escrow Agent of the BRA's request for disbursement, which confirmation of receipt shall be given promptly after the BRA's request for disbursement is received by Prudential's Social Investing Unit, Escrow Agent shall disburse such funds to the BRA and this Agreement shall then terminate and be of no further force or effect. If Prudential objects in a timely fashion to the disbursement of the balance of the Enforcement Fund to the BRA, Escrow Agent shall continue to hold the Enforcement Fund in escrow until it receives written instructions to do otherwise, signed by both Prudential and the BRA.

7. (a) Escrow Agent's fees for acting hereunder shall be \$1,200 for each twelve month period during the term of this Agreement and shall be deducted by Escrow Agent from the first interest which accrues hereunder during the twelve month period in question.

(b) Escrow Agent shall be entitled to rely upon any notice, signature or writing which it shall in good faith believe to be genuine and to be signed or presented by a proper party or parties. Escrow Agent may consult with its counsel, or counsel of any of the other parties hereto, and shall not be held liable for any action taken or omitted in good faith on advice of such counsel. The other parties hereto jointly and severally agree to indemnify, protect and hold Escrow Agent harmless from any and all loss, liability and expense for anything which is done or omitted by it in good faith and not contrary to the express provisions of this Agreement or a notice or writing delivered to it hereunder and will reimburse the Escrow Agent for all its losses and expenses, including counsel fees, incurred by it in the performance of its duties

and responsibilities hereunder except those which may be occasioned by Escrow Agent's own gross negligence or willful misconduct.

(c) Escrow Agent shall not be required to recognize any other agreement between the other parties hereto even though reference thereto may be made herein or copies or provisions thereof may be annexed as exhibits hereto and whether or not it may have knowledge thereof; it being the intent of the parties hereto that Escrow Agent's duties and responsibilities are only those as are expressly set forth therein. Escrow Agent shall have no responsibility whatsoever with respect to the undertakings of any other party hereto or to any notices or undertakings of anyone not a party hereto.

8. All notices and other communications given under this Agreement shall be in writing and delivered by receipted hand delivery or mailed, postage prepaid, by registered or certified mail, return receipt requested, to the other parties at their addresses provided below unless a substitute address is furnished in a notice conforming to this paragraph:

BRA:

Boston Redevelopment Authority
One City Hall Square
Boston, Massachusetts 02201
Attention: Director

with a copy to:

Boston Redevelopment Authority
Building 33
Charlestown Navy Yard
Charlestown, Massachusetts 02129
Attention: Chief General Counsel

Prudential:

The Prudential Insurance Company of America
Social Investments Unit
Prudential Plaza
15th Floor
Newark, New Jersey 07102

With a copy to:

Prudential Realty Group
Prudential Tower
Suite 4800
Boston, Massachusetts 02199
Attention: Regional Counsel; and

Goodwin, Procter & Hoar
Exchange Place
Boston, Massachusetts 02109
Attention: Joseph W. Haley, Esq.

Escrow Agent:

Bank of New England, N.A.
28 State Street
Boston, Massachusetts 02109
Attention: Office in Charge
Corporate Trust Department

Any notice or other communication given by a party under this Agreement to the Escrow Agent shall be given by such party to the other parties hereto simultaneously therewith. Any notice or communication given by the Escrow Agent under this Agreement to any party hereto shall be given to the other parties hereto simultaneously therewith.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed on their behalf by their respective officer hereunto duly authorized as of the day and year first above written.

BOSTON REDEVELOPMENT AUTHORITY

By: 

THE PRUDENTIAL INSURANCE COMPANY
OF AMERICA

By: 

Vice President

BANK OF NEW ENGLAND, N.A.

By: 

Gerald R. Wheeler
Vice President

Attest:

Date: November 6, 1989

This document is a true and correct copy of the same which is on file in the Secretary's Office, Boston Redevelopment Authority, Room 910, One City Hall Square, Boston, MA 02201.

Karl Simonian

DEVELOPMENT IMPACT PROJECT AGREEMENT

Secretary

for

Planned for Development Area No. 17

bounded by Berkeley Street, Boylston Street,

Clarendon Street and St. James Avenue, Boston Proper

THIS AGREEMENT dated as of June 28, 1985, among the BOSTON REDEVELOPMENT AUTHORITY ("BRA"), the NEIGHBORHOOD HOUSING TRUST hereafter to be created, and the joint venture of NEW ENGLAND MUTUAL LIFE INSURANCE COMPANY, a Massachusetts corporation and GERALD D. HINES INTERESTS, INC., a Texas corporation ("Joint Venture").

W I T N E S S E T H:

WHEREAS, the Joint Venture proposes to construct a mixed-use development project including office, retail, and commercial uses and a below-grade parking facility ("Project") to be located on premises bounded by Berkeley Street, Boylston Street, Clarendon Street, and St. James Avenue, Ward 3, City Proper ("Premises ");

WHEREAS, the Premises include the St. James Avenue Garage site and related land including discontinued street areas presently owned by the City of Boston;

WHEREAS, the Joint Venture, the City of Boston acting by and through its Public Facilities Commission, and the BRA have entered into a Sale and Construction Agreement dated as of June 30, 1984 ("Sale and Construction Agreement") and Section 1001(b) of the Sale and Construction Agreement

contemplates the execution of this Agreement (terms and phrases used herein and defined in the Sale and Construction Agreement shall have the definitions attributed thereto in the Sale and Construction Agreement);

WHEREAS, the BRA has tentatively designated the Joint Venture as redeveloper of the St. James Avenue Garage site and related land and the City Council of the City of Boston has transferred the care, custody, management, and control of the St. James Avenue Garage and related land to the Public Facilities Commission for conveyance to the Joint Venture pursuant to votes taken by the BRA on December 8, 1983, the Real Property Board on December 9, 1983, the Public Facilities Commission on December 12, 1983, and August 23, 1984, and the City Council on April 18, 1984, and the Sale and Construction Agreement among the City of Boston, BRA and Joint Venture approved by the Public Facilities Commission on August 23, 1984, and the BRA on August 29, 1984;

WHEREAS, the terms and conditions of the Joint Venture's tentative designation as redeveloper provide that the Project shall comply with the "linkage" policies of the City of Boston;

WHEREAS, the linkage policies of the City of Boston have been incorporated in Article 26 of the Boston Zoning Code (the "Zoning Code") by Text Amendment No. 73, which became effective on December 29, 1983;

WHEREAS, in order to facilitate the development of the Project, the Joint Venture has applied to the BRA for designation of the Premises as a Planned Development Area ("PDA") pursuant to Section 3-1A of the Zoning Code;

WHEREAS, pursuant to the Joint Venture's application for designation of the Premises as a PDA and in accordance with Article 26 of the Zoning Code, the BRA has approved on March 28, 1985, after notice and public hearing held on September 27, 1984, a PDA/DIP Plan authorizing exceptions under

Section 6A-1 of the Zoning Code from those provisions of the Zoning Code as are required for development of the Project and has petitioned the Boston Zoning Commission to change the zoning of the Premises from a B-8 to a B-8-D zoning district; and

WHEREAS, the Neighborhood Housing Trust referred to in Article 26 of the Zoning Code, as amended, has not yet been created;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties agree as follows:

1. The Joint Venture will cause the Premises to be developed in accordance with the PDA/DIP Plan and the terms of the Sale and Construction Agreement.

2. The Joint Venture shall be responsible, in accordance with the terms of this Agreement, for a Development Impact Project Exaction, as such term is presently defined in Section 26-2(3) of the Zoning Code, in the amounts set forth in Section 3 of this Agreement. The Joint Venture may, at its option, satisfy its obligation for the Development Impact Project Exaction, in whole or in part, by payment in accordance with Section 5 of this Agreement, or by contributing to the creation of housing units for occupancy exclusively by low and moderate income residents of the City of Boston in accordance with Section 6 of this Agreement.

3. Although the Premises will be developed in a single, continuous, sequential phase, it is anticipated that construction of the western component ("Western Component") will commence and a building permit will be issued approximately twenty-seven (27) months before the commencement of construction of and issuance of a building permit for the eastern component ("Eastern Component"). The Development Impact Project Exaction shall be paid separately for the Western Component and the Eastern Component. Liability arising

under this Agreement in connection with a particular component shall be limited to the interest of the Joint Venture in such component. In illustration, but not in limitation of the foregoing, if separate successors to the Joint Venture own each of the Western and Eastern Components in accordance with and as contemplated by the Sale and Construction Agreement, then the owner of the Western Component shall have no liability for the Development Impact Project Exaction for the Eastern Component and vice versa. The Development Impact Project Exaction for the Western Component, containing approximately 725,000 square feet, shall be Three Million One Hundred Twenty-Five Thousand Dollars (\$3,125,000). The Development Impact Project Exaction for the Eastern Component, containing approximately 575,000 square feet, shall be Two Million Eight Hundred Seventy-Five Thousand Dollars (\$2,875,000). The parties acknowledge that the amounts of the Development Impact Project Exaction stated above have been based upon areas for the Components stated in the Sale and Construction Agreement. The parties further acknowledge that the Development Impact Project Exaction for the Western Component is based upon a Housing Payment Exaction of \$5.00 for each square foot of gross floor area in excess of 100,000 square feet of such component, whereas the Development Impact Project Exaction for the Eastern Component is based upon a Housing Payment Exaction of \$5.00 for each square foot of the entire gross floor area of such Component. If the Gross Floor Area, as defined in Section 2-1(21) of the Zoning Code and as certified by the Project Architect, for either or both of the Components differs from the schematic building area for such Component set forth in the Sale and Construction Agreement, this Agreement shall be amended to adjust the amount of the Development Impact Project Exaction in accordance with Article 26 of the Boston Zoning Code.

4. The "Payment Date" for each Component shall be the earlier of the issuance of a Certificate of Occupancy or twenty-four (24) months after the granting of a Building Permit with respect to the entirety of such Component. If a Building Permit is not granted for any part of such Component, or if construction of any part of such Component is abandoned prior to the commencement of substantial construction (as defined in the Sale and Construction Agreement) after a Building Permit is obtained, or if for any reason a Building Permit for a Component has lapsed prior to the commencement of substantial construction, then the Joint Venture shall have no responsibility for any Development Impact Project Exaction with respect to such Component. (The foregoing shall apply to the Eastern Component notwithstanding that all or any portion of the Eastern Component Development Impact Project Exaction may have accrued prior to such event.)

5. If the Joint Venture shall elect to satisfy the responsibility for the Development Impact Project Exaction by money payments for either or both of the Components, then the Development Impact Project Exaction shall be paid to the City of Boston acting by and through the Neighborhood Housing Trust, or if such Trust has not been created, then to the BRA in twelve (12) equal annual payments.

With respect to the Western Component, the first installment of the Development Impact Project Exaction shall be due and payable on the Payment Date for the Western Component, and subsequent installments shall be due and payable without interest on the following eleven (11) anniversary dates of the Payment Date for the Western Component, all payments to be made where and otherwise as instructed by the BRA.

With respect to the Eastern Component, the first such installment of the Development Impact Project Exaction shall accrue on the earlier of the Payment Date for the Eastern Component or four (4) years after the Condition Date (as defined in the Sale and Construction Agreement) and subsequent installments shall accrue on the following eleven (11) anniversaries thereof. Notwithstanding the accrual of such installments (together with interest as provided below), such amounts shall not be payable until the Payment Date for the Eastern Component, at which time all accrued installments and interest accrued thereon shall be due and payable. Installments accruing on or after the Payment Date for the Eastern Component shall be due and payable as and when accrued, without interest. Accrued installments shall accrue simple interest through the Payment Date for the Eastern Component at rates determined from time to time as being equal to the lowest interest rate payable, from time to time, by the City of Boston on any borrowed funds. Notwithstanding the foregoing, the Joint Venture shall receive a credit against any interest due on installments accrued before the Payment Date for the Eastern Component in a sum equal to the amount by which the Joint Venture's contribution to the fund for the redesign of Copley Square exceeds \$300,000.00.

6. If the Joint Venture shall elect to contribute to the creation of housing units for occupancy exclusively by low and moderate income residents of the City of Boston with respect to either or both of the Components, the Joint Venture shall submit a proposal in writing to the BRA on or before the Payment Date for the Component in question, describing the number, location, cost, and design of the housing units. The proposal shall be subject to approval by the BRA after public notice and hearing.

7. Any payments made by the Joint Venture pursuant to Section 5, and the cost of any contribution to the creation of housing units by the Joint Venture pursuant to Section 6, shall be credited against any amounts due in connection with the particular Component to the Neighborhood Housing Trust on account of any neighborhood impact excise which may be assessed by the City of Boston.

8. The BRA agrees that the Joint Venture and its successors in interest shall be liable for breaches of obligations under this Agreement with respect to a particular Component only while the Joint Venture or any successor in interest, as the case may be, is owner of the Component in question. The BRA further agrees to look solely to the interest in the Component in question of the Joint Venture or its successors, as the case may be, for any claim against the Joint Venture or any successor arising under this Agreement in connection with such Component. Neither the Joint Venture nor any trustee, beneficiary, partner, manager, agent, or employee of the Joint Venture (or its successors and assigns) shall ever be personally or individually liable; nor shall it or they ever be answerable or liable in any equitable proceeding or order beyond the extent of its or their interest in the Project.

9. The BRA hereby agrees that, subject to recalculation provided in Section 3 of this Agreement, any recalculation of the rate of the Housing Payment Exaction as set forth in Section 26-3(2)(c) of the Zoning Code and otherwise shall not in any way increase the Housing Payment Exaction set forth in this Agreement.

10. The BRA acknowledges that by the signing of this Agreement, the Joint Venture will have satisfied the requirements of Section 26-3(2) of the Zoning Code insofar as satisfaction of the requirements of that Section is a

precondition to the granting, allowing, or adopting of a variance, conditional use permit, exception, or zoning map or text amendment with respect to the Joint Venture's development of the Premises.

11. If the parties desire hereafter to amend this Agreement, such agreement shall be written and executed by the parties hereto.


12. This Agreement shall be considered under Massachusetts law, sets forth the entire agreement among the parties, may be amended or modified only by a writing signed by all parties, and is binding upon and inures to the benefit of the parties and their successors, assigns, and legal representatives, notwithstanding any subsequent amendment or repeal (or court decision having the effect of amendment or repeal) to or of the "linkage policies" of the City as incorporated in Article 26 of the Boston Zoning Code.

13. The Joint Venture will formulate a Voluntary Employment Opportunity Plan which will provide for the Joint venture's good faith efforts to achieve a goal that 50% of the employment opportunities created by the Project will be made available to Boston residents.

14. It is specifically agreed by the parties that this Agreement and the Sale and Construction Agreement are intended to supplement each other. However, where ambiguities or inconsistencies exist, the provisions of the Sale and Construction Agreement shall prevail and the terms of this Agreement shall, to the extent necessary, be of no effect.

BOSTON REDEVELOPMENT AUTHORITY

By:

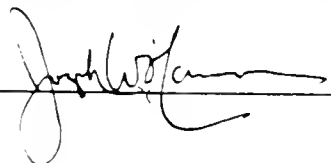


Stephen Coyle, Director
Hereunto duly authorized

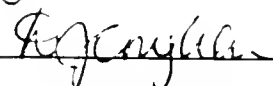
NEW ENGLAND MUTUAL LIFE
INSURANCE COMPANY

By: Copley Real Estate Advisors, Inc.,
Asset Manager and Advisor,
hereunto duly authorized

By:

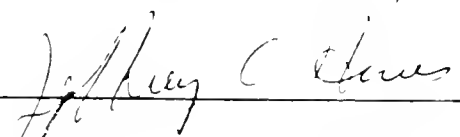


By:



GERALD D. HINES INTERESTS, INC.

By:



By:



Attest:

Date: November 6, 1988

This document is a true and correct copy of the same which is on file in the Secretary's Office, Boston Redevelopment Authority, MAY - 4 1988 Room 910, Boston, MA 02201.

FIRST AMENDMENT

Kew Simonian
Secretary

TO

DEVELOPMENT IMPACT PROJECT AGREEMENT

FOR

Planned Development Area No. 17
Bounded by Berkeley Street,
Boylston Street, Clarendon Street and
St. James Avenue, Boston Proper

BOSTON REDEVELOPMENT
AUTHORITY

MAY 11 9 42 AM '88

This First Amendment to Development Impact Project Agreement is entered into as of the 11th day of May, 1988 by and among the BOSTON REDEVELOPMENT AUTHORITY ("BRA"), the NEIGHBORHOOD HOUSING TRUST (the "Trust"), FIVE HUNDRED BOYLSTON WEST VENTURE, a joint venture formed under the partnership laws of the Commonwealth of Massachusetts (the "Venture"), NEW ENGLAND MUTUAL LIFE INSURANCE COMPANY, a Massachusetts corporation ("NEL") and GERALD D. HINES INTERESTS, INC., a Texas corporation ("Hines").

WITNESSETH:

WHEREAS, the BRA on its own behalf and on behalf of the Trust and the joint venture of NEL and Hines entered into a certain Development Impact Project Agreement dated as of June 28, 1985 (the "Agreement");

WHEREAS, since the date of the Agreement, the Trust has been established;

WHEREAS, since the date of the Agreement, the Western Component as defined in the Agreement has been conveyed to the Venture and the Eastern Component as defined in the Agreement has been conveyed to NEL;

WHEREAS, Section 3 of the Agreement provides that if the Gross Floor Area as defined in Section 2-1(21) of the Boston Zoning Code and as certified by the Project Architect, for either or both Components differs from the schematic building area for such Component set forth in the Sale and Construction Agreement, the Agreement shall be amended to adjust the amount of the Development Impact Project Exaction in accordance with Article 26 of the Boston Zoning Code;

WHEREAS, the Gross Floor Area for each of the Western and Eastern Components differs from the schematic building areas set forth in the Sale and Construction Agreement;

WHEREAS, the parties wish to amend the Agreement to reflect revised Gross Floor Areas for the Western and Eastern Components and to set forth certain other agreements of the parties hereto.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties hereto, the BRA, the Trust, the Venture, NEL and Hines hereby agree as follows:

1. All terms used and not defined herein shall have the meanings ascribed to them in the Agreement.
2. All references in the Agreement to the "Sale and Construction Agreement" shall hereinafter refer to the Amended and Restated Sale and Construction Agreement dated as of April 15, 1986 by and among the City of Boston, the BRA, NEL and Hines, all references in the Agreement to the "PDA/DIP Plan" shall hereafter refer to the Amended and Restated Development Plan and Development Impact Project Plan for Planned Development Area No. 17 approved by the BRA on April 21, 1988 after notice and public hearing held on

April 21, 1988 and all references in the Agreement to the "Joint Venture" shall hereafter refer to the Venture with respect to the Western Component and NEL and Hines with respect to the Eastern Component, or in either case to their successors and assigns.

3. Section 3 of the Agreement shall be amended as follows:

- a. The first sentence thereof shall be deleted.
- b. The fifth, sixth and seventh sentences shall be deleted and the following substituted therefor:

"The Development Project Exaction for the Western Component, containing 694,921.97 square feet, shall be \$2,974,609.85. The Development Impact Project Exaction for the Eastern Component, containing approximately 505,000 square feet, shall be \$2,525,000. The parties acknowledge that the amount of the Development Impact Project Exaction stated above has been (i) finally determined for the Western Component based upon a certification by the Project Architect of the gross floor area as defined in Section 2-1(21) of Article 2 of the Boston Zoning Code ("Gross Floor Area") of the Western Component, and (ii) estimated for the Eastern Component based upon the area for such Component set forth in the PDA/DIP Plan."


- c. The last sentence shall be deleted in its entirety and the following substituted therefor:

"If the Gross Floor Area as certified by the Project Architect for the Eastern Component differs from the estimate set forth in the PDA/DIP Plan, the amount of the Development Impact Project Exaction payable with respect to such Component shall be based upon the Gross Floor Area as certified by the Project Architect."


Except as amended hereby, the Agreement shall remain in full force and effect as of the date hereof.

EXECUTED as a sealed instrument as of the day and year first above written.

BOSTON REDEVELOPMENT AUTHORITY

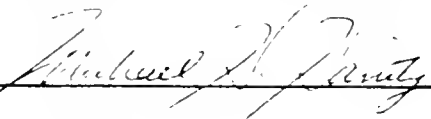
By: 
Stephen Coyle, Director

Approved as to Form:

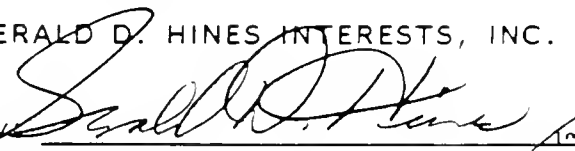

Chief General Counsel

NEW ENGLAND MUTUAL LIFE
INSURANCE COMPANY

By: Copley Real Estate Advisors, Inc.
Asset Manager and Advisor
Hereunto Duly Authorized

By: 

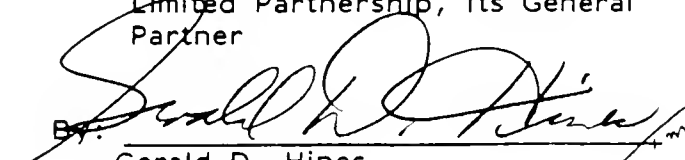
GERALD D. HINES INTERESTS, INC.

By: 

FIVE HUNDRED BOYLSTON
WEST VENTURE

By: Boylston West 1986 Associates
Limited Partnership, Its
Managing Partner

By: Gerald D. Hines, Interests, Ltd.,
doing business in Massachusetts
as Gerald D. Hines Interests,
Limited Partnership, Its General
Partner

By: 
Gerald D. Hines
General Partner

1

*Originals: L. Bourque
Legal*
Copies: P. Wessling, J. J. [unclear]
DEVELOPMENT IMPACT PROJECT AGREEMENT

- for

Planned Development Area No. 21

Bounded Generally by Water, Broad, State and
Kilby Streets, Boston Proper

THIS AGREEMENT dated as of **June 18**, 1985, among the
BOSTON REDEVELOPMENT AUTHORITY ("BRA") on its own behalf and as
escrow agent for the NEIGHBORHOOD HOUSING TRUST, hereafter to be
created, and 99 STATE STREET LIMITED PARTNERSHIP, a Massachusetts
Limited Partnership having a business address of c/o The Beacon
Companies, Suite 3400, One Post Office Square, Boston, Massachu-
setts 02109, of which the general partners are the Kilby Street
Limited Partnership, a Massachusetts limited partnership, and The
Equitable Life Assurance Society of the United States, a New York
corporation ("99 State").

W I T N E S S E T H:

WHEREAS, 99 State proposes to construct a mixed-use develop-
ment project including office, retail, and commercial uses and a
below-grade parking facility ("Project") to be located on the
premises bounded generally by State and Kilby Streets and Kilby
Place and various privately owned parcels in Downtown Boston
("Premises"), as shown on the attached Exhibit;

WHEREAS, the Premises include the Kilby Street Garage site
and that land formerly known as Doane Street and discontinued as
a public way in the City of Boston;

WHEREAS, 99 State, the City of Boston acting by and through its Public Facilities Commission, and the BRA have entered into a Sale and Construction Agreement dated June , 1985 ("Sale and Construction Agreement") and Section 1001(b) of the Sale and Construction Agreement contemplates the execution of this Agreement (terms and phrases used herein and defined in the Sale and Construction Agreement shall have the definitions attributed thereto in the Sale and Construction Agreement).

WHEREAS, the BRA has recommended tentative designation of 99 State as redeveloper of the Premises and the City Council of the City of Boston has transferred the care, custody, management, and control of the Kilby Street Garage and discontinued Doane Street to the Public Facilities Commission for conveyance to 99 State pursuant to votes taken by the BRA on April 18, 1985, the Real Property Board on May 24, 1985, the Public Facilities Commission on April 25, 1985 and June 7, 1985, and the City Council on June 5, 1985 and signed by the Mayor on June 6, 1985, and the Sale and Construction Agreement among the City of Boston, BRA and 99 State approved by the Public Facilities Commission on June ___, 1985, and the BRA on June ___, 1985;

WHEREAS, the terms and conditions of 99 State's tentative designation as redeveloper provide that the Project shall comply with the "linkage" policies of the City of Boston;

WHEREAS, the linkage policies of the City of Boston have been incorporated in Article 26 of the Boston Zoning Code (the "Zoning Code") by Text Amendment No. 73, which became effective on December 29, 1983;

WHEREAS, 99 State has applied to the BRA for designation of the area generally bounded by Broad, Water, Kilby and State Streets as a Planned Development Area ("PDA") pursuant to Section 3-1A of the Zoning Code;

WHEREAS, pursuant to 99 State's application for designation of a PDA (the Premises being a portion of the PDA), and in accordance with Article 26 of the Zoning Code, the BRA has approved on June 13, 1985, after notice and public hearing held on June 13, 1985, a PDA/DIP Plan authorizing exceptions under Section 6A-1 of the Zoning Code from those provisions of the Zoning Code as are required for development of the Project and has petitioned the Boston Zoning Commission to change the zoning of the Premises from a B-10 to a B-10-D zoning district; and

WHEREAS, the Neighborhood Housing Trust referred to in Article 26 of the Zoning Code, as amended, has not yet been created;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties agree as follows:

1. 99 State will cause the Premises to be developed in accordance with the PDA/DIP Plan and the terms of the Sale and Construction Agreement.

2. 99 State shall be responsible, in accordance with the terms of this Agreement, for a Development Impact Project Exaction, as such term is presently defined in Section 26-2(3) of the Zoning Code, in the amounts set forth in Section 3 of this Agreement. 99 State may, at its option, satisfy its obligation for the Development Impact Project Exaction, in whole or in part,

by payment in accordance with Section 5 of this Agreement, or by contributing to the creation of housing units for occupancy exclusively by low and moderate income residents of the City of Boston in accordance with Section 6 of this Agreement.

3. It is anticipated that construction of the Project will commence and a building permit will be issued in approximately fourteen (14) months. Liability arising under this Agreement in connection with the Project shall be limited to the interest in the Premises of 99 State and no general or limited partner thereof shall have any personal liability. The development Impact Project Exaction for the Project, containing approximately 700,000 gross square feet of floor area, shall be approximately Three Million (\$3,000,000.00) Dollars. The parties acknowledge that the amounts of the Development Impact Project Exaction stated above have been based upon estimated areas for the Project stated in the Sale and Construction Agreement. If the Gross Floor Area, as defined in Section 2-1(21) of the Zoning Code and as certified by the Project Architect for the Project, differs from the schematic building area, this Agreement shall be amended to adjust the amount of the Development Impact Project Exaction in accordance with Article 26 of the Boston Zoning Code.

4. 99 State agrees to follow the BRA's Development Review Procedures to the satisfaction of the BRA.

5. The "Payment Date" for the Project shall be the earlier of the issuance of a Certificate of Occupancy or twenty-four (24) months after the granting of a Building Permit with respect to

the Project. If a Building Permit is not granted for the Project, or if construction of any part of the Project is abandoned prior to the commencement of substantial construction (as defined in the Sale and Construction Agreement) after a Building Permit is obtained, or if for any reason a Building Permit has lapsed prior to the commencement of substantial construction, then 99 State shall have no responsibility for any Development Impact Project Exaction with respect to the Project.

6. If 99 State shall elect to satisfy the responsibility for the Development Impact Project Exaction by money payments, then the Development Impact Project Exaction shall be paid to the City of Boston acting by and through the Neighborhood Housing Trust, or if such Trust has not been created, then to the BRA in twelve (12) equal annual payments beginning on the Payment Date.

7. If 99 State shall elect to contribute to the creation of housing units for occupancy exclusively by low and moderate income residents of the City of Boston with respect to the Project, 99 State shall submit a proposal in writing to the BRA on or before the Payment Date, describing the number, location, cost, and design of the housing units. The proposal shall be subject to approval by the BRA after public notice and hearing.

8. The BRA agrees that 99 State and its successors in interest shall be liable for breaches of obligations under this Agreement with respect to the Project only while it or any successor in interest, as the case may be, is owner of the Project. The BRA further agrees to look solely to the interests in the Premises of 99 State for any claim arising under this

Agreement. Neither 99 State nor any trustee, beneficiary, partner, manager, agent, or employee of said 99 State, or its successors in interest, shall ever be personally or individually liable; nor shall it or they ever be answerable or liable in any equitable proceeding or order beyond the extent of its or their interest in the Project.

9. The BRA hereby agrees that, subject to the recalculation provisions contained in Section 3 of this Agreement, any recalculation of the rate of the Housing Payment Exaction as set forth in Section 26-3(2)(c) of the Zoning Code and otherwise shall not in any way increase the Housing Payment Exaction set forth in this Agreement.

10. The BRA acknowledges that by the signing of this Agreement 99 State will have satisfied the requirements of Section 26-3(2) of the Zoning Code insofar as satisfaction of the requirements of that Section is a precondition to the granting, allowing, or adopting of variances, conditional use permits, exceptions, or zoning map or text amendment with respect to 99 State's development of the Premises.

11. If the parties desire hereafter to amend this Agreement, such agreement shall be in writing and executed by the parties hereto.

12. This Agreement shall be governed by Massachusetts law, sets forth the entire agreement among the parties, may be amended or modified only by a writing signed by all parties, and is binding upon and inures to the benefit of the parties and their successors, assigns, and legal representatives, notwithstanding

any subsequent amendment or repeal (or court decision having the effect of amendment or repeal) to or of the "linkage policies" of the City as incorporated in Article 26 of the Boston Zoning Code.

13. If the City of Boston should hereafter impose, assess or levy any excise or tax upon the Project, the proceeds of which are dedicated, in whole or in part, to the establishment of a fund for a purpose similar to the purpose recited in Section 26-1 of said Article 26, amounts payable hereunder by 99 State shall be credited against such excise or tax; provided, however, that if such crediting shall not be legally permissible to satisfy payment of such tax or excise, the obligations of 99 State hereunder shall, to the extent of the amount of such tax or excise, thereupon cease and be of no further force and effect.

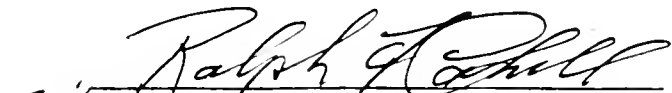
14. 99 State will formulate and submit to the BRA within three months from the date hereof a Voluntary Employment Opportunity Plan which will provide for its good faith efforts to achieve a goal that 50% of the employment opportunities created by the Project will be made available to Boston residents. In addition, 99 State agrees to require the General Contractor for the project and its subcontractors to use good faith efforts to employ 50% Boston residents, 25% minority, and 10% women in their work force for construction of the project.


15. It is specifically agreed by the parties that this Agreement and the Sale and Construction Agreement are intended to supplement each other. However, where ambiguities or inconsistencies exist, the provisions of the Sale and Construction

Agreement shall prevail and the terms of this Agreement shall, to the extent necessary, be of no effect.

Approved as to form

BOSTON REDEVELOPMENT AUTHORITY

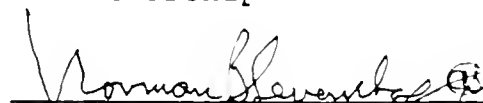

~~Chief~~ General Counsel
Boston Redevelopment Authority

By: 
Stephen Coyle, Director
Hereunto Duly Authorized

99 STATE STREET LIMITED
PARTNERSHIP

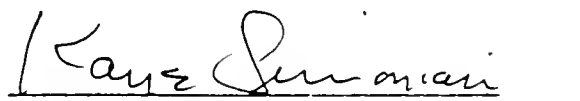
By: Kilby Street Limited
Partnership

ATTEST:


A General Partner

This document is a true and correct copy of the one which is on file in the Secretary's Office, Boston Redevelopment Authority, Room 910, One City Hall Square, Boston, MA 02201.

November 8, 1989
Date


Secretary
Boston Redevelopment Authority

EXHIBIT

ERCH.
OW

STATE STREET

BROAD ST.

DOANE STREET

KILBY STREET

CENTRAL STREET CT

EXCHANGE PL.

KILBY PLACE

WATER STREET

LIBERTY SQUARE

BATTERYMARCH ST

ST

**Site Development Plan
99 State Street**

5-29-85

NEIGHBORHOOD HOUSING TRUST
AND BOSTON REDEVELOPMENT AUTHORITY
One City Hall Plaza
Boston, Massachusetts 02201

BY CERTIFIED MAIL/RETURN RECEIPT

NOVEMBER 30, 1989

Two Twenty Two Berkeley Venture
500 Boylston Street
Suite 1800
Boston, Massachusetts 02116

RE: Development Impact Project Agreement, dated June 28, 1985, as amended on May 11, 1988, covering 222 Berkeley Street and 500 Boylston Street, Boston, Massachusetts (collectively, the "Project").

Ladies and Gentlemen:

Pursuant to the above-referenced DIP Agreement (the "DIP Agreement"), upon the earlier to occur of (i) April 24, 1991, (ii) the date which is four (4) years after the Condition Date (as defined in the Sale and Construction Agreement affecting the Project) and (iii) the issuance of a certificate of occupancy for 222 Berkeley Street (the "Eastern Component") (such date, and each anniversary thereof, being hereinafter referred to as the "Payment Date") you will be required to make certain annual payments ("Linkage Payments") to the undersigned Neighborhood Housing Trust as a contribution to the housing needs in the City of Boston.

The undersigned Neighborhood Housing Trust and Boston Redevelopment Authority have assigned all Linkage Payments to be made by you pursuant to the DIP Agreement to the Prudential Insurance Company of America ("Prudential"). Therefore, effective commencing with the first installment of Linkage Payments payable by you under the DIP Agreement and until you receive further notice to the contrary from Prudential, all Linkage Payments payable by you under the DIP Agreement (which as of the date hereof is estimated to be \$2,525,000 in the aggregate, due in twelve (12) annual installments of \$210,416.66 each on each Payment Date), are to be made to the order of the following entity at the following address:

Prudential Insurance Company of America
Prudential Center, Suite 4800
Boston, Massachusetts 02199
Attention: David Smith
Accounting Manager

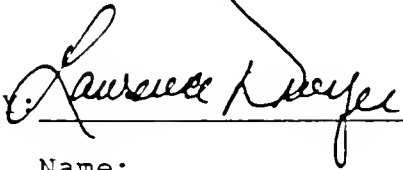
This notice relates only to the Linkage Payments to be made by you pursuant to the above referenced DIP Agreement. Any other payments to be made under the DIP Agreement and relating to the Eastern Component, including any Jobs Contribution Grant, Jobs Payments or Jobs Contribution, shall continue to be made in the manner described in the DIP Agreement. Furthermore, in the event you are a party to any DIP Agreements other than the one referenced above, all payments to be made pursuant to such other DIP Agreements shall continue to be made in the manner described in such other DIP Agreements unless and until you receive notice to the contrary from the undersigned.

Please sign this letter in the space provided below to confirm that the DIP Agreement is in full force and effect and has not been further amended or modified, and to confirm your obligation and agreement to make all future Linkage Payments under the DIP Agreement in accordance with this request and direction. Please return the signed letter in the enclosed envelope, to the Boston Redevelopment Authority at the above address, Attention: Thomas O'Malley.

If you have any questions regarding the foregoing, please contact Thomas O'Malley at 722-4300.


Sincerely,

Neighborhood Housing Trust

BY: 
Name: _____

Title: CHAIRMAN

Boston Redevelopment Authority

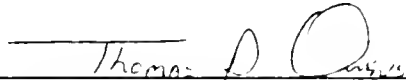
BY: 
Name: _____
Title: David Smith

CONFIRMED:

Two Twenty Two Berkeley Venture

BY: Hines 222 Berkeley Limited
Partnership, a general partner of
Two Twenty Two Berkeley Venture

BY: Hines Associates 222 Berkeley
Limited Partnership, a general
partner of 222 Berkeley Limited
Partnership

BY: 
Thomas D. Owens
Vice President

THE FOLLOWING DOCUMENTS MAY AMEND OR MODIFY THE DIP
AGREEMENT. HOWEVER, THEY DO NOT ALTER TWO TWENTY TWO
BERKELEY VENTURE'S OBLIGATION TO MAKE HOUSING PAYMENTS.

1. Estoppel Certificate and Agreement of the Boston
Redevelopment Authority and the City of Boston dated
April 13, 1989.
2. Amended and Restated Development Plan and Development
Impact Project Plan for Planned Development Area No. 17
dated April 21, 1988.
3. Amended and Restated Sale and Construction Agreement
dated April 15, 1986.

NEIGHBORHOOD HOUSING TRUST
AND BOSTON REDEVELOPMENT AUTHORITY
One City Hall Plaza
Boston, Massachusetts 02201

BY CERTIFIED MAIL/RETURN RECEIPT
75 State Street Limited Partnership
formerly 99 State Street Limited Partnership)
c/o The Beacon Companies
50 Rowes Wharf
Boston, Massachusetts 02110

December 5, 1989

Re: Development Impact Project Agreement, as amended,
covering 75 State Street, Boston, Massachusetts

Ladies and Gentlemen:

Pursuant to the above-referenced DIP Agreement (the "DIP Agreement"), you are required to make certain annual payments ("Linkage Payments") to the undersigned Neighborhood Housing Trust as a contribution to the housing needs in the City of Boston.

The undersigned Neighborhood Housing Trust and Boston Redevelopment Authority have assigned \$250,000 of each of the remaining ten (10) Linkage Payments to be made by you pursuant to the DIP Agreement (\$2,500,000 in the aggregate) to the Prudential Insurance Company of America ("Prudential"). Therefore, effective commencing with the next succeeding installment of Linkage Payments, all remaining Linkage Payments, which are due in installments payable on October 1st of each year, are to be made as follows: (X) \$250,000 to the order of the following entity at the following address: P

Prudential Insurance Company of America
Prudential Center, Suite 4800
Boston, Massachusetts 02199
Attention: David Smith
Accounting Manager;

~~and (b) the remainder of any such installment should be paid in the same manner as you have paid the first two (2) installments of Linkage Payments as provided in the DIP Agreement.~~ D

You should continue to make the \$250,000 payment to Prudential as directed above, on October 1st of each year, unless and until you receive further notice to the contrary by Prudential.

~~This notice relates only to the Linkage Payments to be made by you pursuant to the above referenced DIP Agreement. Any~~ D

~~other payments to be made under the DIP Agreement, including any Jobs Contribution Grant, Jobs Payment or Jobs Contribution, shall continue to be made in the manner described in the DIP Agreement. Furthermore, in the event you are a party to any DIP Agreements other than the one referenced above, all payments to be made pursuant to such other DIP Agreements shall continue to be made in the manner described in such other DIP Agreements unless and until you receive notice to the contrary from the undersigned.~~

Please sign this letter in the space provided below to confirm that the DIP Agreement is in full force and effect and has not been further amended or modified, and to confirm your obligation and agreement to make all future Linkage Payments under the DIP Agreement in accordance with this request and direction. Please return the signed letter in the enclosed envelope, to the Boston Redevelopment Authority at the above address, Attention: Thomas O'Malley.

If you have any questions regarding the foregoing, please contact Thomas O'Malley at 722-4300.

Sincerely,

Neighborhood Housing Trust

By: [Signature]

Name:

Title: Director of BHA
Agent for NHT

Boston Redevelopment Authority

By: [Signature]

Name:

Title: Director of BHA

CONFIRMED:

75 State Street Limited Partnership

(formerly 99 State Street Limited Partnership)

By: [Signature]

Name: Edwin N. Sidman

Title: A General Partner of Kilby Street Limited Partnership

Hereunto duly authorized

NEIGHBORHOOD HOUSING TRUST
1010 Massachusetts Avenue
Boston, Massachusetts 02118

As of December 7, 1989

The Prudential Life Insurance
Company of America
Prudential Plaza
15th Floor
Newark, New Jersey 07102

Re: Payment Directions

Dear Ladies and Gentlemen:

Please pay all the proceeds from the loan described in the Loan and Security Agreement dated December 5, 1989, directly to the Neighborhood Housing Trust. We acknowledge that as of the date hereof the loan proceeds shall equal \$3,049,761.29. If the loan proceeds are delivered by a certified check on December 8, 1989, one day's interest at the rate of 9.25% per annum will be added thereto (for an aggregate disbursement of \$3,050,534.18). If the loan proceeds are wire transferred to our account per the instructions previously furnished to Michael J. Litchman, Esq. of Goodwin, Procter & Hoar by Edward F. Kelly of Schapiro, Hays & Kelly, then three additional days of interest at the aforesaid rate will be added thereto (for an aggregate disbursement of \$3,052,852.83).

Very truly yours,

Neighborhood Housing Trust

By:

Title:

Michael J. Litchman
Chairman

XP-5112/p
12/08/89

SCHAPIRO, HAYS & KELLY

Professional Corporation

ATTORNEYS AT LAW

44 SCHOOL STREET

BOSTON, MA 02108

TEL. (617) 723-7440

FAX (617) 723-8849

SAUL A. SCHAPIRO

MICHAEL HAYS

EDWARD F. KELLY

ROSELEE PRICE

MARGARET M. WITTIG*

December 7, 1989

*Admitted in CT and MA

The Prudential Insurance Company of America
Prudential Plaza
15th Floor
Newark, New Jersey 07102

Re: Loan to and Notes from the Neighborhood Housing Trust

Dear Ladies and Gentlemen:

We have acted as special counsel for the Neighborhood Housing Trust (the "Borrower") in connection with the loan of \$3,224,727.26 (the "Loan") you are proposing to make to it secured by inter alia the assignment of the right to receive the payments otherwise payable to or for the benefit of the Borrower pursuant to certain Development Impact Project Agreements referred to in that certain Loan Agreement dated as of even date herewith, between you, the Borrower and the Boston Redevelopment Authority (the "Loan Agreement").

The Loan will be made pursuant to the Loan Agreement and will be evidenced by the Promissory Notes (the "Notes") the forms of which are annexed to the Loan Agreement. In connection with the Loan, the Borrower shall also execute and deliver certain other documentation forms of which are annexed to the Loan Agreement (the Loan Agreement, Notes and such other documentation, collectively, the "Loan Documents"). We have examined the Declaration of Trust of the Borrower, the Rules and Regulations for operations of the Neighborhood Housing Trust of the City of Boston, all votes of the Borrower taken in connection with the Loan, the Development Impact Project Agreements which will be assigned to you as security for the Loan, the Loan Documents and all relevant records of the Borrower, and have made such other investigations as we have deemed necessary in connection with the opinions hereinafter set forth. In such examination we have assumed the genuineness of all signatures and the authenticity of all documents submitted to us as copies thereof.

Based upon and in reliance on the foregoing, it is our opinion that:

1. The Borrower is a duly organized and existing Massachusetts public charitable trust under the laws of the Commonwealth of Massachusetts with full power and authority to take the actions to be taken by the Borrower pursuant to the provisions of the Loan Agreement and the other Loan Documents.

2. The Loan Agreement and all other Loan Documents have been duly authorized, executed and delivered by the Borrower and is a legal, valid and binding obligations of the Borrower enforceable against the Borrower in accordance with its terms.

3. The execution and delivery of the Loan Documents by the Borrower and the consumation of the transaction contemplated thereby will not violate the Declaration of Trust, Rules and Regulations for operation of the Neighborhood Housing Trust, votes of the Trust, DIP Agreements or records hereinabove referred to nor any agreements by which the Borrower is bound of which we are aware.

The attorneys who participated in the services rendered by us in connection with the matters covered by this opinion are members of the Bar of the Commonwealth of Massachusetts and do not purport to be experts on the law of any other state the law of which is applicable to such matters.

Very truly yours,

Schapiro, Hays & Kelly, P.C.
(S.F.K.)
Schapiro, Hays & Kelly, P.C.

SCHAPIRO, HAYS & KELLY

Professional Corporation

ATTORNEYS AT LAW

44 SCHOOL STREET

BOSTON, MA 02108

TEL (617) 723-7440

FAX (617) 723-8849

SCHAPIRO
EL HAYS
D F KELLY
EE PRICE
ARET M WITTING*

December 6, 1989

itted in CT and MA

The Prudential Insurance Company of America
Prudential Plaza
15th Floor
Newark, New Jersey 07102

Re: Loan to and Notes from the Neighborhood Housing Trust

Dear Ladies and Gentlemen:

We have acted as counsel for the Boston Redevelopment Authority ("BRA") in connection with the loan of \$3,224,727.26 (the "Loan") you are proposing to make to the Neighborhood Housing Trust ("Trust") secured by inter alia the assignment of the right to receive the payments otherwise payable to or for the benefit of the Trust pursuant to certain Development Impact Project Agreements referred to in that certain Loan Agreement, dated as of even date herewith, between you, the Trust and the BRA (the "Loan Agreement").

The Loan will be made pursuant to the Loan Agreement and will be evidenced by the Promissory Notes (the "Notes") the forms of which are annexed to the Loan Agreement. In connection with the Loan, the BRA will execute and deliver certain other documentation forms of which will be annexed to the Loan Agreement (the Loan Agreement, the Notes and such other documentation, collectively, the "Loan Documents"). We have examined the By Laws of the BRA, the Housing Creation Regulations of the BRA, all votes of the BRA taken in connection with the Loan, the Development Impact Project Agreements which will be assigned to you as security for the Loan, the Loan Documents and all relevant records of the BRA, and have made such other investigations as we have deemed necessary in connection with the opinions hereinafter set forth. In such examination we have assumed the genuineness of all signatures and the authenticity of all documents submitted to us as copies thereof.

Based upon and in reliance on the foregoing, it is our opinion that:

1. The BRA is a duly organized body politic and corporate organized pursuant to M.C.L. c. 121B and St. 1960, c. 652, as amended, and has full power and authority to take the actions to be taken by the BRA pursuant to the provisions of the Loan Agreement and the other Loan Documents enforceable against the BRA in accordance with their terms.

2. The Loan Agreement and all other Loan Documents have been duly authorized, executed and delivered by the BRA and are legal, valid and binding obligations of the BRA.

3. The execution and delivery of the Loan Documents by the BRA and the consumation of the transactions contemplated thereby will not violate the By Laws, votes, Development Impact Project Agreements or records herein above referred to nor any agreement by which the BRA is bound of which we are aware.

The attorneys who participated in the services rendered by us in connection with the matters covered by this opinion are members of the Bar of the Commonwealth of Massachusetts and do not purport to be experts on the law of any other state the law of which is applicable to such matters.

Very truly yours,

Schapiro, Hays & Kelly, P.C.
(S.F.K.)

Schapiro, Hays & Kelly, P.C.

7142 101

BOSTON PUBLIC LIBRARY



3 9999 06314 701 9

